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T H E

ARRAIGNMENT, &c.

O F

Sir Richard Grahme, Baronet,

Viscount P R E S T O N in the Kingdom of Scotland,

A N D

John Ashton, Gent.

Anno Regni Domini WILLIELMI & Dominæ

M A R I Æ, *Angl.* &c. Secundo.

Die Veneris, 16. die Januarii, Anno Dom. 1690.

The King and Queens Writ of *Habeas Corpora* was sent to the Governour of the Tower of London, to bring up the Bodies of Sir Richard Grahme Baronet, Viscount Preston in the Kingdom of Scotland, John Ashton and Edmund Elliot Gent. to the Sessions-house in the Old-Baily, London; where they were brought between the hours of Ten and Eleven in the Forenoon; and, being placed at the Bar, were Arraigned upon an Indictment of High-Treason found the day before by the Grand-Jury for the County of Middlesex, at Hicks Hall, in manner following:

Cl. of Arraignments.

SIR Richard Grahme, hold up your hand, [Which he did, and so the other two.]—*You stand indicted by the names of Sir Richard Grahme, late of the Parish of St. Anne within the Liberty of Westminster, in the County of Middlesex, Baronet; John Ashton, late of the Parish of St. Paul Covent-Garden in the County aforesaid, Gentleman; and Edmund Elliott, late of the Parish of St. James within the Liberty aforesaid in the County aforesaid, Gent. for that you, as false Traytors against the most Illustrious and most Excellent Princes William and Mary, King and Queen of England, Defenders of the Faith, &c. your Sovereign Lord and Lady, not having the fear of God in your hearts, nor weighing the duty of your Allegiance, but being moved and seduced by the instigation of the Devil, the cordial Love, and true, due, and natural Obedience, which every true and faithful Subject of our said Sovereign Lord and Lady, the King and Queen that now are, towards them our said Sovereign Lord and Lady the King and Queen should, and of right ought to bear, wholly withdrawing; and contriving,*

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practising, and with all your strength intending the Peace and Common Tranquility
 of this Kingdom of England to disquiet, molest, und disturb; and War and Re-
 bellion against our said Sovereign Lord and Lady, the King and Queen that now are,
 within this Kingdom of England to stir up, move, and procure; and the Govern-
 ment of our said Lord and Lady the King and Queen of this Kingdom of Eng-
 land to subvert, change and alter; and our said Lord and Lady, the King and
 Queen, from the Title, Honour, and Royal Name of the Imperial Crown of this
 their Kingdom of England to depose and deprive; and our said Lord and Lady
 the King and Queen to death and final destruction to bring and put; you the said
 Sir Richard Grahme, John Ashton, and Edmund Elliott, the Nine and twen-
 tieth day of December, in the second year of the Reign of Our said Lord and
 Lady the King and Queen that now are; and divers other days and times, as well
 before as after, at the Parish of St. Clement Danes, in the County aforesaid,
 Falsly, Maliciously, Devillishly, and Traiterously, with Force and Arms, &c. with
 divers false Rebels and Traytors, to the Jurors unknown, did Conspire, Treat of,
 Compass, Imagine, and intend our said Lord and Lady the King and Queen that now
 are, (your supreme and natural Lord and Lady) from the Royal State, Crown, Title,
 Power, and Government of their Kingdom of England, to Deprive, Depose, and Cast
 down; and the same our Lord and Lady the King and Queen that now are, to Kill,
 and bring and put to Death; and the Government of this Kingdom of England
 to Change, Alter, and wholly to Subvert; and a miserable Slaughter among the
 Subjects of our said Lord and Lady, the King and Queen, within Their Kingdom
 of England, to Cause and Procure; and an Insurrection, War, and Rebellion
 against Our said Lord and Lady, the King and Queen that now are, within this
 Kingdom of England to Move, Procure, and Aid; and the same your most evil,
 wicked, and Devillish Treasons, and Traiterous Compassings, Imaginations, and
 Purposes aforesaid, to fulfill, perfect, and bring to effect, you the said Sir Richard
 Grahme, John Ashton, and Edmund Elliott, as false Traytors, then and there,
 to wit, the said Nine and twentieth day of December, in the said second year of the
 Reign of our said Lord and Lady, the King and Queen that now are, and divers
 other days and times, as well before, as after, at the Parish of St. Clement Danes
 aforesaid, in the County aforesaid, with Force and Arms, &c. falsly, unlawfully,
 wickedly and traiterously, did Propose, Consult, and Agree to Procure and Prepare
 great Numbers of Armed Men, War and Rebellion against our said Lord and Lady
 the King and Queen, within this Kingdom of England to Levy, and Make; And
 that you the said Sir Richard Grahme, John Ashton, and Edmund Elliott,
 afterwards, to wit, the same Nine and twentieth day of December, in the aforesaid
 second year of the Reign of our said Lord and Lady, the King and Queen that now
 are, at the Parish of St. Clement Danes aforesaid, in the County aforesaid, falsly,
 maliciously, and traiterously, did Prepare, and Compose, and then and there did
 Cause, and Procure to be Prepared, and Composed, several Traiterous Letters,
 Notes, Memorandums, and Instructions in writing, to shew and inform Lewis
 then and yet the French King, and his Subjects, then and yet Enemies of our
 said Lord and Lady, the King and Queen that now are, and very many other evil-
 disposed persons, and false Traytors, to the Jurors unknown, of and concerning
 the Number, Force, and Condition of certain Ships, for, and on the behalf of our
 said Lord and Lady, the King and Queen of England, then, and there designed
 and prepared for the defence of their Kingdom of England, and their Enemies
 aforesaid to repell and resist; and how some of the same Ships were Manned, and of
 the Names of the Captains of several of the said Ships; and how the Castles and
 Fortresses of our said Lord and Lady, the King and Queen, called Portsmouth,
 South Sea, and Gosport, within this Kingdom of England, were strengthened and
 fortified, and how the same Castles and Fortresses, into the hands and possession of
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Enemies and false Traytors against our said Lord and Lady, the King and Queen, might be taken and seized; as also of the time, places, ways, manners, and means by which, when, and where the same Enemies of our said Lord and Lady, the King and Queen, this Kingdom of England might invade and infest; and the same Enemies, and the Ships of the Enemies of this Kingdom of England, should fight against our said Lord and Lady, the King and Queen, and their faithful Subjects; as also to procure, provide, prepare, and obtain against our said Lord and Lady, the King and Queen that now are, Assistance and Armed Men, our said Lord and Lady the King and Queen that now are, from their Royal State and Government of this Kingdom of England to cast down and Depose, and to stir up, promote, and procure the aforesaid Lewis the French King, (then, and yet an Enemy of our said Lord and Lady the King and Queen) this Kingdom of England to invade; and to send Ships within this Kingdom of England, the City of London, of our said Lord and Lady the King and Queen that now are, to Plague; as also to cause very many Subjects of our said Lord and Lady the King and Queen that now are, to Rise, and War and Rebellion against our said Lord and Lady the King and Queen within this Kingdom of England to move, procure, make, and levy. And you the said Sir Richard Grahme, John Ashton, and Edmund Elliot afterwards, to wit, the same day and year, at the aforesaid Parish of St. Clement Danes in the County of Middlesex, of and for the same your Treasons and Traiterous Compassings, Imaginations, and Purposes aforesaid, to execute, fulfill, perfect, and bring to effect into your Hands, Custody, and Possession, then and there Secretly, Knowingly, Unlawfully, and Traiterously did obtain, procure, detain, had, concealed, and kept two several Bills of Exchange then before made, for the Payment of several Sums of Money to the Enemies of our said Lord and Lady the King and Queen that now are; as also very many Traiterous Letters, Notes, Memorandums, and Instructions in Writings, then and there composed and prepared with that intent to shew and inform Lewis then and yet the French King, and his Subjects, then and yet Enemies of our said Lord and Lady the King and Queen that now are, and very many other Evil Disposed Persons, and False Traytors to the Furors unknown, of and concerning the Number, Force and Condition of the Ships, for and on the behalf of them our said Lord and Lady the King and Queen of England, then and there designed, and prepared for the Defence of Their Kingdom of England, and to Repell, and Resist their Enemies, and how some of the same Ships were Manned, and of the Names of the Captains of divers of the same Ships, and how the Castles and Fortresses of our said Lord and Lady the King and Queen, called Portsmouth, Southsea, and Gosport, within this Kingdom of England were Strengthened, and Fortified; and how the same Castles and Forts into the Hands and Possession of Enemies and false Traytors against our said Lord and Lady the King and Queen, might be taken and seized; as also the Times, Places, Ways, Manners, and Means, by which, when, and where the same Enemies of our said Lord and Lady the King and Queen, this Kingdom of England might Invade, and Infest, and the Enemies, and Ships of the Enemies of this Kingdom of England should Fight against the same our Lord and Lady the King and Queen of England, and their faithful Subjects; as also to procure, provide, prepare, and obtain against our said Lord and Lady the King and Queen, Assistance and Armed Men, to Invade this Kingdom of England, and our said Lord and Lady the King and Queen that now are, from their Royal State and Government of this Kingdom of England, to cast down and depose, and to stir up, promote, and procure the aforesaid Lewis the French King then, and yet an Enemy of our said Lord and Lady the King and Queen, to Invade this Kingdom of England, and to send Ships within this Kingdom of England, the City of London, of our said Lord and Lady the King and Queen to plague; as also to cause very many Subjects of our said

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Lord and Lady the King and Queen, to Rise, and War, and Rebellion against our said Lord and Lady the King and Queen, within this Kingdom of England, to move, procure, make, and levy. And you the said Sir Richard Grahme, John Ashton, and Edmund Elliott, afterwards, to wit, the Thirtieth day of December, now last past, at the aforesaid Parish of St. Clement Danes, in the County of Middlesex, concerning, and for the same your Treasons, and Traiterous Compassings, Imaginations, and Purposes aforesaid, to execute, fulfill, perfect, and bring to Effect, for One Hundred Pounds in Moneys, numbred by you the said Sir Richard Grahme, John Ashton, and Edmund Elliott then and there paid, and deposited, unlawfully and Traiterously did hire and prepare, and then and there did cause and procure to be hired and prepared a certain Ship, and three Men; you, the said Sir Richard Grahme, John Ashton, and Edmund Elliott, with the said Bills of Exchange, and the aforesaid Traiterous Letters, Notes, Memorandums, and Instructions in Writing, into the Hands, Custody and Possession of you the said Sir Richard Grahme, John Ashton, and Edmund Elliot, secretly, unlawfully, and traiterously, kept concealed and detained from this Kingdom of England, unto, and into France, in Parts beyond the Seas, then and yet under the Rule and Government of the said Lewis the French King, then and yet an Enemy of our said Lord and Lady the King and Queen, secretly to carry and transport, with that intent the said Bills of Exchange, Traiterous Letters, Notes and Memorandums, and Instructions in Writing there in parts beyond the Seas, to the Enemies of our said Lord and Lady the King and Queen, and other Evil-disposed Persons to deliver and disperse. And the said most wicked Treasons, and Traiterous Compassings and Imaginations aforesaid, to fulfil perfect, and bring to effect, as also to cause, promote and procure the aforesaid Enemies of our said Lord and Lady, the King and Queen, to invade this Kingdom of England with Ships and Armed Men. And you the said Sir Richard Grahme, John Ashton, and Edmund Elliott, afterwards, to wit, the 30th Day of December now last past, at the aforesaid Parish of St. Clement Danes, in the County aforesaid, concerning, and for the same your Treasons, and Traiterous Compassings, Imaginations and Purposes aforesaid, to execute and fulfil, maliciously, traiterously, and advisedly, then and there, and diverse other days and times, as well before as after, took upon your selves to very many other Traytors to be aiding and assisting in the execution of the Treasons, and Traiterous Compassings, Imaginations and Purposes aforesaid; and then and there, to wit, the same 30th day of December now last past, at the Parish of St. Clement Danes, in the County aforesaid, maliciously, secretly and traiterously did hire, and prepare, and then and there did cause and procure to be hired and prepared a certain Boat, and one Man, to the Jurors aforesaid unknown; you the said Sir Richard Grahme, John Ashton, and Edmund Elliott, from thence to, and into the aforesaid Ship, so as aforesaid hired and prepared to carry and convey. And you the said Sir Richard Grahme, John Ashton, and Edmund Elliott, maliciously and traiterously into the same Boat, then and there did enter; and your selves from thence, in and by that same Boat, unto and into the Ship aforesaid, then and there unlawfully and traiterously did cause, and procure to be carried with the intention aforesaid. And you the said Sir Richard Grahme, John Ashton, and Edmund Elliott, with the same Bills of Exchange, and the aforesaid traiterous Letters, Notes, Memorandums and Instructions in Writing, and in your Hands, Custody and Possession then and there, in and with the Ship aforesaid, did sail, and depart towards the aforesaid Kingdom of France, in Parts beyond the Seas; the same your most wicked, evil and traiterous Intentions, Purposes, Compassings and Imaginations aforesaid, to fulfil, perfect and promote, against the Duty of your Allegiance, against the Peace of our said Lord and Lady the King and Queen that now are, their Crown and Dignity,

Dignity, and against the Form of the Statute in that Case made, and provided, And the Indictment further sets forth, that long before the aforesaid Nine and Twentieth day of December now last past, open War between our said Lord and Lady the King and Queen, and the aforesaid Lewis the French King was begun, declared, and waged, and yet is; Which said Lewis the French King, and his Subjects, and the men of those parts, then and yet, were, and are, Enemies to our said Lord and Lady the King and Queen that now are, and to their Kingdom of England: And that in the time of the aforesaid War between them our said Lord and Lady the King and Queen, and the aforesaid Lewis the French King, you the said Sir Richard Grahme, John Ashton, and Edmund Ellyott, being Subjects of our said Lord and Lady the King and Queen that now are, as false Traitors against our said Lord and Lady the King and Queen, during the War aforesaid, to wit, the Nine and Twentieth day of December, in the Second year of the Reign of our said Lord and Lady the King and Queen that now are, and divers other days and times as well before as after, at the Parish of St. Clement Danes aforesaid, in the County aforesaid, with force, and Arms, &c. To the aforesaid Enemies of our said Lord and Lady the King and Queen that now are, unlawfully, and Traiterously were adbereing, and assisting, and in Execution, and performance of the same adbering you the said Sir Richard Grahme, John Ashton, and Edmund Ellyott, then, and there to wit, the same Nine and Twentieth day of December in the Second year of the Reign of our said Lord and Lady the King and Queen that now are, above-said, at the aforesaid Parish of St. Clement Danes in the County aforesaid, falsly, Maliciously, and Traiterously did prepare, and compose, and then and there did cause, and procure to be prepared, and composed as also into your Custody, and Possession then, and there unlawfully secretly, and Traiterously did obtain, detain, conceal, and keep, divers traitorous Letters, Notes, Memorandums, and Instructions in writing, to shew and inform the aforesaid Lewis then and yet the French King, and his Subjects, then and yet Enemies of our said Lord and Lady the King and Queen that now are, of and concerning the Number, Force, and Condition of certain Ships, for and on the behalf of our said Lord and Lady the King and Queen of England, then and there designed, and preparing, for their defence of their Kingdom of England, and their Enemies aforesaid to repel, and resist; and how some of the same Ships were manned, and of the Names of severat of the Captains of the said Ships; and how the Castles and Fortresses of our said Lord and Lady the King and Queen, called Portsmouth, Southsea, and fortified, and Gosport within this Kingdom of England were strengthened, and how those same Castles and Fortresses into the hands and possession of the said Enemies of our said Lord and Lady the King and Queen might be taken, and Seized, as also of the Time, Places, Ways, Manners, and Means, by which, when, and where the same Enemies of our said Lord and Lady the King and Queen that now are this Kingdom of England might invade, and Infest, and they the said Enemies, and the Ships of the said Enemies of this Kingdom of England should fight against our said Lord and Lady the King and Queen, and their faithful Subjects. And that during the War aforesaid, to wit, the aforesaid Thirtieth day of December now last past, you the said Sir Richard Grahme, John Ashton, and Edmund Ellyott, at the aforesaid Parish of St. Clements Danes in the County aforesaid, unlawfully, and Traiterously did hire, and prepare and then and there did cause, and procure to be hired and prepared a certain Ship, and three men, you the said Sir Richard Grahme, John Ashton, and Edmund Ellyot, with the same Traiterous Letters, Notes, Memorandums, and Instructions in writing, from this Kingdom of England, unto, and into France in parts beyond the Seas, then and there under the Rule and Government of the aforesaid Lewis the French King, then and yet an Enemy of our said Lord and Lady the King and Queen, secretly, during the War aforesaid, to carry, and transport, to the intent the same Traiterous Letters, Notes, Memorandums, and Instructions in writing there, in parts beyond the Seas, to the aforesaid Enemies of our said Lord and Lady the King and Queen that now are to deliver, and disperse during the War aforesaid,

aforesaid in aid of the said Enemies of our said Lord and Lady the King and Queen in the War aforesaid : And that you the said Sir Richard Grahme, John Ashton, and Edmund Ellyott, during the War aforesaid, to wit, the aforesaid thirtieth day of December now last past, at the Parish of St. Clement Danes, in the County aforesaid concerning, and for the same your Treasons and traiterous Adhereings and purposes aforesaid to execute and fulfil, maliciously, traiterously and advisedly, then, and there did hire and prepare, and then and there did cause, and procure to be hired, and prepared a certain Boat and one man to the Jurors unknown you the said Sir Richard Grahme, John Ashton, and Edmond Eliyott from thence to and into the Ship aforesaid, by you as aforesaid, hired and prepared to carry, and convey: And that you the said Sir Richard Grahme, John Ashton, and Edmund Ellyott, maliciously, and traiterously into the same Boat then and there did enter, and your selves from thence secretly in and by the same Boat unto and into the same Ship then, and there did cause and procure to be carried in prosecution of the adhering aforesaid. And you the said Sir Richard Grahme, John Ashton, and Edmund Ellyott then and there with the same traiterous Letters, Notes, Memorandums, and Instructions in writing, in your custody and possession being, during the War aforesaid, to wit, the same day and year, in and with the Ship aforesaid did sail, and depart towards the aforesaid Kingdom of France, to the intent the same traiterous Letters, Notes, Memorandums and Instructions in writing in parts beyond the Sea, to the said Enemies of our said Lord and Lady the King and Queen that now are to deliver, concerning and for Aid, Intelligence, and Counsel by you the said Sir Richard Grahme, John Ashton, and Edmund Ellyott to the same Enemies of our said Lord and Lady the King and Queen that now are to give, and yeild, during the War aforesaid, against the Duty of your Allegiance, against the peace of our said Sovereign Lord and Lady the King and Queen that now are, their Crown and Dignity, and against the Form of the Statute in that case made and provided. How say you Sir Richard Grahme, are you guilty of this Felony, and High Treason whereof you stand indicted, or not guilty?

L. Preston. My Lord, I have something humbly to offer to your Lordships.

L. C. J. Holt. What is it your Lordship would say?

L. Preston. My Lord, I find I stand indicted by the name of Sir Richard Grahme, Baronet, but I do take my self to be intitled to another way of Trial, as being a Peer of England, by vertue of a Patent before the Vote of Abdication was made; and it was in a time when all your Processes, and all your Writs went in the late King's Name, and all Officers acted by vertue of his Commissions. My Lord, This is a matter that concerns me in point of Life, Estate, Posterity, and all that's dear to me; and therefore I desire to know whether your Lordships think fit to allow me my Peerage; I offer it, my Lord, with all the respect and modesty imaginable.

L. C. J. Holt, My Lord, I apprehend your Lordship to offer against your being tried here, that you are a Peer.

L. Preston. I take my self to be so, my Lord.

L. C. J. Holt. My Lord, you must make that out to the Court.

L. Preston. I told your Lordships the Ground of my Claim, and Apprehension; it is from a Patent I received before the Vote of Abdication, when all Commissions, and all Process, and all the Courts of Judicature run in that Name.

L. C. J. Holt. Where is that Patent, my Lord?

L. Preston. It is in the Hands of the House of Lords.

L. C. J. Holt. My Lord Preston, we cannot take notice of that Patent; if your Lordship plead that you were made a Peer by a Patent under the Great Seal of England, you must produce it under the Great Seal, that the Court may see what it is, and whether it be sufficient to justify your Plea.

L. Preston. I hope your Lordship and this Court will enable me to do that, by sending an Order to the Clerk of the House of Lords, to bring the Patent hither; for it is in his hands.

L. C. J.

L. C. J. *Holt*. My Lord, that is not in our power: If your Lordship take your self to be a Peer, and would thereby stop this Court from proceeding to try you, you must be ready to make it out.

L. *Preston*. I am ready to make it out, if I had my Patent here, that would make it out. Certainly there is some Authority now in being (I humbly offer it with all submission and respect) that may order the Clerk of the House of Lords to attend this Court, and produce this Patent.

L. C. J. *Holt*. My Lord *Preston*, we are not to enable you to plead to the Jurisdiction of the Court.

L. *Preston*. My Lord, I offer it with all respect to the Court: I am concerned in it for my Life, and my All, and if that be overruled, this I hope you will do before you go on, you will hear me by my Counsel,

L. C. J. *Holt*. My Lord, it is nothing that you have said; for if your Lordship plead this Plea to the Jurisdiction of the Court, it ought not to be received without shewing your Patent.

L. *Preston*. My Lord, I desire my Counsel to be heard to this matter.

L. C. J. *Holt*. I know your Lordship has had the benefit of Counsel, and I know your Counsel must tell you, that what you say goes for nothing, unless you put in your Plea, and produce your Patent, that the Court may judge upon it.

Mr. *Sol. Gen*. My Lord, I have observed what my Lord *Preston* has mentioned —

L. *Preston*. Pray Mr. Solicitor will you speak out, that I may hear what you say?

Mr. *Soll. Gen*. My Lord, I say, I have taken notice of what your Lordship has offered: It has been most truly observed by the Court, that it is your Lordships part to make good your Plea, and it ought not to be expected that any Court should help a Person to plead to its Jurisdiction: But because it should not be pretended that an advantage was taken against the Prisoner for a defect in point of form, or that any thing was insisted on which should have the least appearance of a hardship, and that we may proceed in the most clear and unexceptionable manner that can be, I must beg leave to observe to your Lordship and the Court, how far this matter which my Lord *Preston* has insisted on has been debated and determined in another place.

L. C. J. *Holt*. So; on Mr. Solicitor.

M. *Soll Gen*. My Lord, upon the 11 of Nov. 1689. My L. *Preston* did make some claim in the House of Lords that he was a Peer of the Realm; the House of Lords demanding of him upon what he founded his pretence; he said he claimed by Letters Patents from the late King *James*, which passed the Great Seal before the time of the Vote of Abdication. The Lords required that those Letters Patents should be produced, which being done, and my L. *Preston* insisting upon his claim to be a Peer of *England*, the Lords thought fit that day to commit my Lord *Preston* to the custody of the Black Rod. The next day being the 12th of *November*, upon solemn debate of the validity of these Letters Patents, and consulting with the Judges then present, the Lords *nemine contradicente* did adjudge and declare those Letters Patents to be void and null: And by another Order of the same date, they did order Mr. Attorney General to prosecute my Lord *Preston* in the *King's Bench* for a High Misdemeanor in presuming to claim Peerage by those Letters Patents. And by a third it was ordered that the Letters Patents should remain in Custody of the Clerk of the Parliament. Thus you see, my Lord, this matter hath had already a solemn determination in a Court which had the most proper Conusance and Jurisdiction of Claims in this Nature. And they having pronounced their Judgment, I did not think it would have been urged again in this place. I thought it proper to mention these things to shew how it comes to pass that

my Lord *Preston* has not his Letters Patents to produce, and to satisfy every man that there is no hardship put upon my Lord *Preston*, by Trying him here when he ought to be Tried by another Judicature. The Lords have given Judgment against these Letters Patents, and have Ordered that they shall remain in Custody of the Clerk of Parliament, and my L. *Preston* is not a stranger to these transactions, and therefore if my Lords Council had been of opinion he could have made any use of them, they would have inform'd him he must have taken another course to have got them, and could not expect this Court should make an Order for him, contrary to the Order of the House of Lords, to take the Letters Patents out of the hands of the Clerk of the Parliament, and this, to help him to a Plea against their own Jurisdiction. I omitted one thing that upon the 27th. of the same Month of November, upon my L. *Preston's* humble Submission and Petition his Lordship was discharged of his Imprisonment and the House of Lords were pleased to remit the Order given to Mr. Attorney, for Prosecuting him in the King's Bench for the Misdemeanour. So that I cannot but wonder to hear of this Claim of Peerage after that Submission. But there is nothing offered to the Court by my Lord that the Court can take any legal notice of. If my Lord will plead any thing to the Jurisdiction of the Court, he ought to have his Plea in Form, and be ready with his Proofs to make it good.

Mr. Serj. *Thompson*. My Lord *Preston* upon this last Order of the House of Lords has disclaimed any right of Peerage when he made his Petition, otherwise he had not been discharged.

L. *Preston*. My Lord I beg leave —

Mr. S. *Thompson*. Besides, My Lord, what my L. *Preston* offers is a matter of Record as all Letters Patents are, and tho out of his hands he might have had recourse to the Record of the Inrolment.

L. *Preston*. For that, my Lord, I must humbly beg of your Lordships a little time to put my self in a Capacity to plead it in Form. If you will over rule it, I can say nothing to it; I offer it with all the modesty and respect imaginable.

L. C. J. *Holt*. It shall do your Lordship no prejudice, My Lord, God forbid but that you should make use of all advantages that you can invent for your defence. But, my Lord, we must tell you what you have offered is nothing that we can take any notice of, unless you had your Patent to produce, and we cannot give your Lordship time to plead to the Jurisdiction of the Court.

L. *Preston*. Then if your Lordships are pleased to over rule this matter I submit, but I hope you will give me leave to make all the just defence I can for my self. Does your Lordship over rule me in it.

L. C. J. *Holt*. I suppose we are all of the same Opinion, if not I suppose they will declare their minds.

L. C. J. *Pollexfen*. That which has been said by Mr. *Sollicitor*, was only that you and all the World may be satisfied that there is nothing of hardship put upon you. But the Court, if this had not been said, yet could take no notice of what you say, unless it were pleaded, and pleaded in a legal Form. But if the matter be, as the Kings Counsel have represented it, that this Patent you now pretend to have, hath already had its determination in a proper place, this Court (which is an Inferiour Court to that of the Lords in Parliament) cannot intermeddle with it. We cannot help you, nor can we set up what was condemned there. So that you can entertain no hope or expectation of our doing any thing for you in this matter, or any releif or help by such a Plea.

L. Ch. *Baron*. My L. *Preston*, you may remember, (I am sure some of us that were there present do,) that you did decline further insisting upon this matter in the House of Lords, and thereupon you had that great favour from the House shewn you, as the King's Counsel have opened.

L. *Preston*.

L. Preston. I did decline it, 'tis true, my Lord; when they had declared it a Misdemeanour, I made my application to the Court, and therein declared I was sorry for having misdemeaned myself.

M. S. Thompson. If your Lordships please we will read the very Orders of the House of Lords, to satisfy my *L. Preston*, that we put no hardship upon him.

L. Preston. If there be any thing of hardship upon me in this Case, it is because I think I have a Right to insist upon this matter, and cannot have an occasion or power to have that which I would make my Defence by.

L. C. J. Holt. Your Lordship shall have a fair Tryal, if you will please to put your self in a Condition to be tryed, by pleading to the Indictment.

M. B. Lechmere. The Lords in Parliament have disclaimed you for being a Peer, and we cannot make you one.

L. Preston. My Lord, I hope your Lordships will put no hard thing upon me, but give me leave and your Lordships help to make my defence.

L. C. J. Holt. You shall by the Grace of God have all the liberty you can desire to make your defence; But you must first plead.

L. Preston. Since your Lordships are pleased to over rule me in this Case. I shall say no more of it. I did not intend to offer any thing that might be an offence to the Court.

L. C. J. Holt. As I told your Lordship before, so I assure you now again it shall do you no prejudice.

L. Preston. Then if your Lordship please, since the Language is different in which the Indictment is written from that in which it was read, and some things may be of different signification in both Languages, I desire the Indictment may be read in Latin.

L. C. J. Holt. Read it in Latin.

L. Preston. I have one thing to beg of your Lordship, before it be read.

L. C. J. Holt. What is it you desire my Lord.

L. Preston. My Lord, I humbly desire, because I cannot retain all the Contents in my memory, that my Solicitor may have leave to stand by me.

L. C. J. Pollexfen. Do you all joyn in this desire, for if you should each of you severally, have it read a great many times over, they that take Notes in shorthand may take a Copy of it as it is read, and a Copy not to be allowed.

L. C. J. Holt. If we find they desire to be troublesome we can over rule them.

L. Preston. I would be guilty of nothing that may give the Court offence, nor offer any thing that should take up the time of the Court unnecessarily.

L. C. J. Holt. If they would have it read in Latin, let it be read.

L. Preston. If it be troublesome to the Court, I wave it my Lord.

L. C. J. Holt. No, we do not think it troublesome.

L. C. J. Pollexfen. Mr. *Ashton* and Mr. *Ellyott* do you also desire to have it read again?

Ashton, Ellyott. We all joyn with my Lord, and desire it may be read in Latin.

L. C. J. Holt. Read it. (Which was done.)

Cl. of Arr. *Juratores pro Domino Rege & Domina Regina: super Sacramentum suum presentant quod— & contra formam Statuti in eo casu editi & provisi.*

L. Preston. My Lord, I am sorry I have taken up so much of your time, I thought the difference of Language might have made some mistake, which I thought would be of advantage to me in my Tryal: And for the same reason I humbly request you will please to order me a Copy of the Indictment.

L. C. J. Holt. My Lord, that we cannot do; it hath been frequently demanded upon these occasions, but always denied. I have always known it denied.

L. Preston. Your Lordship will give me leave to say what your Lordship must needs know much better than I, there is a Statute in the 46 of *Edw. 3.* that doth order a Copy of any Record to any Prisoner, or other Person if he demand it:

And it has been granted, as I am informed in other Cases, particularly in the Case of Colonel *Sidney*.

L. C. J. Holt. No, my Lord, it was denied in Colonel *Sidneys* Case.

L. Preston. If I mistake I beg your Lordships pardon. It is a Reason in a late Law made for the Reversal of Mr. *Cornishes* Attainder. The Parliament, do there say that it was not a legal Tryal, because he had not a Copy of the Indictment, and time given him to prepare for his defence.

L. C. J. Holt. Truly, my Lord, I do not know how that matter stands: That Reversal of Mr. *Cornishes* Attainder is but a private Act of Parliament. I never saw it, nor heard it read, nor can we take notice of it. But your Lordship is to be Tried by the same methods of Law, that all Persons that have gone before you have always been, it has always been the course, that the Prisoner should not have a Copy of his Indictment, Col. *Sidney* had it not, and I remember in the Case of Sir *Hen. Vane* in the year 1662, he demanded a Copy of the Indictment, and it was denied him, and it has been constantly denied ever since in all such Cases.

L. Preston. I humbly desire to know whether it was not granted in the Case of my Lord *Ruffel*.

L. C. J. Holt. No indeed my Lord, my Lord *Ruffel* had it not, I can take it upon me to say that, for I know all the proceedings in that Cause.

L. C. J. Pollexfen. No my Lord, never any Man had it in all my experience.

L. C. J. Holt. Some of us that are here were of Council for my Lord *Ruffel* at that time, and we did not advise him to demand a Copy of the Indictment, for we knew he could not have it by Law.

L. Preston. I am very tender of taking up your Lordships time unnecessarily, but it stands me upon to do all I can to defend my self, may not I have my Counsel heard to that point, because if it be a point of Law, though your Lordships are of Counsel for the Prisoner, yet I beg that I may have my Counsel heard to argue it.

L. C. J. Holt. To what point would you have your Counsel heard?

L. Preston. To that point, whether I may not have a Copy of my Indictment according to the 46. of *Ed. 3.* that is the point I would have my Counsel heard to.

L. C. J. Holt. There is no such Statute as your Lordship mentions, that gives the Prisoner a Copy of his Indictment.

Mr. Jones. If your Lordship please to hear me for my *L. Preston* —

L. C. J. Holt. Nay, *Mr. Jones*, you are mistaken in this matter: If my Lord himself will shew that there is any such Statute, we will consider of it, and if it be a matter that requires debate, we may assign my Lord Counsel to argue it, but till then Counsel are not to be heard. My *L. Preston*, if your Lordship can shew us that Statute, pray do?

L. Preston. My Lord I desire none if it be, not so.

L. C. J. Holt. I have heard a discourse concerning such a Statute, but I could never find it.

L. Preston. I suppose my Solicitor is here with it, there is such a Statute my Lord.

L. C. J. Pollexfen. The Court over ruled it in the Case of Sir *H. Vane*.

L. C. J. Holt. And so it was I remember in another Case, and in none of the Trials that have been since King *Charles* the Second came in, was ever a Copy given that I know or heard of.

Mr. Soll. Gen. My Lord this Statute that my *L. Preston* mentions, the 46 of *Ed. 3.* is printed at large in the Preface to my Lord *Cokes* 3d. Report; and has been insisted upon in several Cases in the *Kings Bench*, where the Prisoner has desired a Copy of his Indictment, but a Copy has been always denied, and this

this Statute has been taken to extend only to Records, which may be Evidence for the Subject.

L. C. J. Pollexfen. 'Twas alwayes ruled that it did not extent to this matter.

L. C. J. Holt. My Lord, 'tis a misconstruction of that Statute that your Lordship thinks that it gives the Prisoner a Copy of his Indictment : For that Statute sayes that all persons shall be free to make use of the Publick Records, and take Copies of them, because oftentimes the Records are Evidences of Mens Estates, and their Titles.

L. Preston. My Lord, an Indictment I suppose is a Record.

L. C. J. Holt. But not such a Record as is within the intent of that Statute.

L. Preston. My Lord, I am tender of taking up your Lordships time, but since all that is dear to me is at stake, I desire to this point I may be heard by Counsel.

L. C. J. Pollexfen. My Lord, I am satisfied you have had Counsel with you, I have heard a great many. Does any one of them tell you that this has been done? If ever an one of them will come and shew us when it has been done, you say something, but I dare say none of them will or can. *Mr. Jones* there, is as like as any body, but I believe he will not say it ever was done.

L. Preston. My Lord I cannot say my Counsel has told me so, but I have read such a Statute my self, for it stands me upon it, and I believe there is such a Statute, and it will be produced before your Lordships. If your Lordships will insist upon not allowing me a Copy, I desire I may be heard to it by my Counsel, for I take it to be a point of Law, with humble submission to your Lordships.

L. C. J. Holt. My Lord, we must not hear Counsel to debate plain points that have no manner of Question in them; It has been alwayes disallowed and 'tis a settled point at Law, and as plain as any whatsoever, that no Copy of an Indictment ought to be allowed to a Prisoner in Felony or Treason.

L. Preston. My Lord, there is a Statute that sayes it shall be allowed to all Persons to have Copies of Records, as well for, as against the King, and certainly the Indictment is a Record; and a Record of great consequence to me at this time; and though my Counsel has not told me when it was done, yet those that I have advised with, do say that the Statute is express.

L. C. Baron. If any doubtful words be in such a Statute, yet the constant practice must expound it, and since it has been so often denied, nay always, the law is now settled, that it is not within the meaning of that Statute.

L. C. J. Holt. We must go in the way of our Predecessors, we received the law from them, and must not contradict the received practice of the Judges in all Ages, nor alter the determinations that have been made in all Cases of the like nature.

L. Preston. I hope your Lordships intend, and I dont question it, that my Tryal should be a legal Tryal; If there be such a Statute that gives me a Copy of the Indictment, and the Court deny it me. I am not legally tryed.

L. C. J. Pollexfen. If you please to name the Statute My Lord, It shall be read to you, but you are mistaken if you think there is any thing in that Statute that will do your Lordship service in this point.

L. C. J. Holt. See the 46. of *Ed. 3.* Read it.

L. Preston. Here is a Copy of the Record in Court.

L. C. J. Pollexfen. It is not Printed, but it is mentioned in the Preface to my *L. Cookes* third Report, and 'tis mentioned no where but there that I know of; but whether there were any such Statute or no *Non constat*, for it is not printed But if it be a Statute, it does not meddle with things of this nature, such as Indictments; for you must consider, my Lord yours is not a Case different from
all

all other Cases of like nature as to this; But it is the Case of all men that are Tryed as you are to be. And if all people were to have Copies of their Indictments to make exceptions out of them before they plead instead of days of Gaol delivery, the whole year would not be sufficient, but would be spent before they could be brought to their Tryal.

L. Preston. My Lord, I am to defend my self as I can by Law, and not to consider what other peoples Cases are. It is my particular Case now, what the Case may be as to any other hereafter, or what the general consequence may be is not to be considered, but if there be any thing that is legal that can give me an advantage in making my defence, I know your Lordships are too just to hinder me from taking advantage of it.

L. C. Baron. My Lord it is no new thing to demand it, it has been frequently demanded, but it has been always over ruled:

L. Preston. My Lord, it is now desired, and a reason is given you that perhaps was not given before; there is such a Law. My Lord Ch. Justice says well it is not printed, but it is a Record, and there is a Copy of that Record in Court. I desired there should be, I am sure.

L. C. J. Holt. If you have a Copy of any Record of an Act of Parliament, it shall be read, if it be proved.

L. Preston. Nay we offer nothing if we dont prove it, but there is such a Record, and the Solicitor is ready to attest it: Pray swear Mr. Whitaker.

Mr. Serj. Tompson. Swear him.

Araignment. You shall true answer make to all such questions as shall be demanded of you by the Court, So help you God. Is this a true Copy?

Mr. Whitaker. It is a true Copy.

L. C. J. Holt. Where did you examine it?

Mr. Whitaker. My Lord it is a true Copy of the Record, I examined it at Mr. Pettyts-Office in the Tower.

L. C. J. Pollexfen. Upon what number Roll is it?

Mr. Whitaker. There is the number Roll and all upon the Book.

Clerk reads. *Item pria les Commons que come recorde & queconque chose en la Court le Roy de reason devoient demurrer illeques pur perpetual evidence & eide de touts parties a ycelly & de touts ceux a queux en nul manner illz atteignent quant, mestier leur fuit. Et ja de nouvel refusent en la Court nostre dit Seignior de serche ou evidence encounter le Roy ou disadvantage de luy. Que please os deinner per Estatute que Serche & Exemplification soit faitz as toutz Gentz de queconque Recorde que les touche en ascun manner auxy bien de ce que chiet encontre le Roy come autres Gentz. Le Roy le voet.*

L. C. J. Pollexfen. It is only Copies of Records that they shall have for Evidence.

L. C. J. Holt. My L. Preston, your Lordship hears by this Record, you may as well pray that an exemplification be made of this Indictment as a Gopy, for so the words of this Act run, it is only meant of those Records that were to be given in Evidence. But this Indictment that you would have a Copy of, is not now to be given in Evidence nor to be exemplified, and so it does not reach your Case.

L. Preston. My Lord, this Indictment is a Record, and a Record against me, and I think it is given in Evidence against me.

Mr. J. Eyres. No my Lord, it is no Evidence but an accusation, it is no proof at all.

L. Preston. It is always sworn unto.

Mr. J. Eyres. The Witnesses are Sworn that Testifie the matter of it to the Grand Jury, but the Indictment it self is no Evidence.

L. C. J. Holt:

L. C. J. Holt. Suppose a Statute be doubtful, as truly I do not take this to be, we are to expound the Statute as it has been expounded in all Ages: It was never thought by any Judges in any Reign, that this Statute did entitle a Prisoner to have a Copy of his Indictment, but always held the contrary.

L. Preston. Will your Lordship be pleased then to allow me Counsel to be heard to it?

L. C. J. Holt. No, my Lord, not Counsel in a plain Case: If the Court apprehend there is any Matter that may be debateable, or whereupon a Doubt may be made, we may assign Counsel, and shall; but never in a plain Case, where there is no manner of Question.

L. Preston. My Lord, here is a Doubt in this Case.

L. C. Baron. But, my Lord, it's not the Doubt of the Prisoner, but the Doubt of the Court that will occasion the assigning Counsel.

L. Preston. But the Prisoner may offer his Doubt to the Court, and your Lordships are so just, that you will take care that the Doubt may be legally resolved.

L. C. J. Holt. My Lord, it is our Duty to see Justice and Right done, and God willing, it shall be.

L. Preston. And I am bound in Duty to my self in such a Case to insist upon all Advantages I can have by Law.

L. C. J. Holt. My Lord, no Body blames you, though your Lordship do urge things that are unnecessary, or improper; and we shall take care that it shall not tend to your Lordships prejudice. We consider the Condition you are in; you stand at the Bar for your Life; you shall have all the fair and just Dealings that can be; and the Court, as in Duty bound, will see that you have no Wrong done you.

L. C. J. Pollexfen. My Lord *Preston*, for this thing that you now mention, in all Ages in all our Books, it is the same thing, and has been in all Mens Cases that have been for their Lives, denied; and this Statute that you bring is quite of another intent: For it is said, the Records shall remain in Court for perpetual Evidence, and the Aiding of all Persons to whom they shall belong. My Lord, this is none of your Case; for God knows, you expect no Aid from this Indictment: But this is meant of all Copies that concern the Estates of Men, that they may have recourse to their Records to make out their Evidences to their Estates, or to have them Exemplified under the Seal of the Court for Evidence: But to have a Copy of an Indictment, thereby to be enabled to consult with Counsel, how to make Exceptions to that Indictment, is a thing that has been denied in all Ages by all the Judges that ever were. If any one can say the contrary, it were something; but shall we now admit Counsel to debate a thing that has been in all Ages denied, and never admitted so much as once? That cannot be expected from us.

L. Preston. The Act says, That it shall be all Records that shall be in Aid to any Person that shall desire it. Here is no distinction made of what kind the Records are to be: If it be for the Aid of any Person, it ought to be granted, and I may be aided by this Record, if I have a Copy of it; and I think it is hard, when I am so much concerned in this Record, that I cannot be helpt to it by this Law.

L. C. J. Pollexfen. Constant Experience has gone according to what we say.

L. Preston. If that be Law, and it has not been demanded, then they are not entituled to have the benefit of it: But now I demand it, sure it is good Law.

L. C. J. Holt. It is no question a good Law, but not applicable to your Lordship's Case: I suppose we are all of the same Opinion; if any think otherwise, I desire they would speak.

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L. Preston.

L. Preston. My Lord, I submit to the Court, but then I desire one Thing, you know my Life, my Fortune, my Reputation, my Posterity, and all are at Stake, and all that is Dear to me must fall with me if I miscarry. Therefore I take leave to represent, That I have had very short Notice of my Tryal, I assure you I have not had above 6 or 7 days Notice, I hope you will not refuse me a little longer time before I come to my Tryal, and I have had no Copy of the Jury yet.

Mr. Sol. Gen. If my Lord please to Plead to the Indictment, that will be time enough to move afterwards, and till Issue is joyn'd, it cannot properly be moved for.

L. C. J. Holt. It is not proper to desire time yet, till you have put your self upon your Tryal by Pleading to the Indictment.

L. Preston. It was granted in Colonel Sidney's Case, he had 8 or 10 days granted him after he had Plead'd; and in the Act for the Reversal of Mr. Cornish's Attainder, it is given as one Cause for the Reversal, that he had not time to prepare for his Defence.

L. C. J. Holt. My Lord, 7 days time is very fair Notice, your Lordship knew when the Sessions would be, and your Lordship might reasonably expect, that you should be Tryed here, I think truly you have had very fair Notice.

Mr. Ashton. My Lord, we have had 7 days Notice of our Tryal 'tis true, this day Seven night at Night we had Notice we were to be Tryed as this day, but 3 days of the 7 we had not the Liberty of seeing any Friend or Counsel, or any Body, not till Tuesday Night, and that we got with great Application, and great Charge to get an Order for our Counsel to come to us, so that though we have had 7 days Notice, yet we have had but 3 days in all to consult with any Body, and we never have had a Copy of our Jury till this Minute.

L. C. J. Pollexfen. We see the Nature of the Thing, and I am sorry that I must say it is fit that we should take notice of it, perhaps the thing that you are accused of is not true; but if it be true, you see what it is, that there are Letters and Papers preparing for a Design to set all the Kingdom in Confusion: Men that will venture upon such sort of Things are not to Condemn the Law if it be a little hard upon them, for 'tis the common preservation that is principally aimed at in Prosecutions of this Nature; and if this Accusation be true, 'tis but Just and Reasonable, that all speed should be used to enquire into and prevent it, and as it falls out in this Case, it is not in our Power to do it. This Sessions is set before this Business is known, and this is an Act done in this County, and therefore the Sessions is the proper place for the Tryal, and so you have the same sort of Proceedings that all other Criminals have, which are very many, though I hope not many of so high a Nature, 7 days Notice you have had you acknowledge; if my Lords please we will Indulge you as far as we can, and give you time for your Tryal till to morrow, but you must Plead presently.

L. C. J. Holt. My Lord, we debate the time of your Tryal too early, for you must put your self upon your Tryal first, by Pleading.

L. Preston. My Lord, I hope I shall always carry my self as becomes me towards the Court, but I do not really think, you have any Tryals that are of so great Concernment, and this sure is a fit time for me to offer it, for it may be, I have a great many Witnesses in the Country, and at a distance from this place and one another.

L. C. J. Holt. My Lord, we cannot Dispute with you concerning your Tryal, till you have Plead'd, I know not what you will say to it, for ought

I know there may be no occasion for a Tryal, I cannot tell what you will Plead, your Lordship must Answer to the Indictment before we can enter into the Debate of this matter.

L. Preston. Will your Lordship give me leave to move it afterwards.

L. C. J. Holt. You may offer any thing then concerning your Tryal, if you can shew any Reason to defer it, it will be proper to do it then.

L. Preston. Truly, My Lord, I think one Reason why my Tryal ought to be put off, is, Because I have a Privilege of excepting against so many of my Jury, but if I have not time to look into the Pannel I shall loose that Privilege.

L. C. J. Holt. We are not come to that yet, you are to Plead now.

L. Preston. Then your Lordships are pleased to over-rule my Claim of Peerage.

L. C. J. Holt. My Lord, We are of Opinion you ought to Plead to this Indictment.

C. of Ar. What says your Lordship, Are you Guilty of this High Treason, or not Guilty.

L. Preston. Not Guilty.

C. of A. Culprit, How wilt thou be Try'd?

L. Preston. By God and my Country.

C. of A. God send you a good Deliverance. *John Ashton,* What sayst thou? Art thou Guilty of the same High Treason, or not Guilty?

Mr. Ashton. My Lord, I have only this to observe, besides what my Lord *Preston* has offered; as to the Business of the Act of Parliament, your Lordships have been pleased to over-Rule that Plea; But, My Lord, I am told, That if an Indictment be faulty, but even in a Letter, we cannot be found Guilty upon that Indictment. Now, if we never have a Copy of that Indictment, how shall we know whether there be any such Fault in it; Your Lordships, who are our Counsel, I suppose have never seen the Indictment, and suppose there be Twenty Faults, we have not the advantage of them, by not having a Copy, and how shall we come to have any Advantage, if neither your Lordships, who are our Counsel, nor we our Selves can see them. It may turn upon that.

L. C. J. Holt. But we will see it when you come upon your Tryal.

L. C. J. Pollexfen. That is a Mis-Information, for it may be such a Letter as is not Material, and it may be such as is Material; as, suppose, your Name being *Ashton*, the *A* should be left out, it would then be a Question, What there would be to Charge you.

Mr. Ashton. We know that it has been so in several Instances.

L. C. J. Pollexfen. It may be such an Omission that may make it no Crime, but we must not presently conclude that it is so, but you have heard it Read, and so have we; if there had been any such Letter mistaken, it would have been taken Notice of.

Mr. Ashton. As to the Reading, there may in the Reading of the Indictment be many Words not nicely observed; I suppose the Indictment may be Right, I say it is possible, it may, or it may not; but if your Lordships never see it, who are our Counsel by Law, nor you will allow us Counsel to look into it; if there be Forty Faults in it, we can have no advantage of it.

L. C. J. Holt. We must not allow you Counsel to pick holes in the Indictment, that never was done, If you assign any Reason, we may assign you Counsel to debate any matter of Law that may arise, but never was Counsel allowed to find out Faults in an Indictment, when you come to your Tryal we shall try you upon your Indictment, and if there be any thing
confi-

considerable, you are to suppose we shall observe it for your advantage.

Mr. Ashton. My Lord, We never had a Copy of the Pannel of our Jury, I pray we may have it.

L. C. J. Holt. That you cannot have till you have Plead.

L. C. J. Baron. *Mr. Ashton,* We have over-Ruled my Lord *Preston* about a Copy of the Indictment, Do you think we shall Grant it you when we have denied it him.

Mr. Ashton. My Lord, I desire we may have a Copy of the Pannel.

L. C. J. Holt. You must Plead first.

C. of A. Are you Guilty of the High Treason, or not Guilty?

Mr. Ashton. Not Guilty.

C. of A. How will you be Tried.

Mr. Ashton. By God and my Country.

C. of A. God send you a good Deliverance. *Edmund Elliot,* How say you? Are you Guilty of the same High Treason, or not Guilty?

Mr. Elliot. Not Guilty.

C. of A. God send you a good Deliverance.

L. Preston. My Lord, I hope now it may be time to pray that my Tryal may be deferred.

L. C. J. Holt. Why would you have it deferred?

L. Preston. Because of the distance of my Witnesses, and other Things that would be necessary for me to have to prepare me for my Defence; and besides, we have not had a Copy of the Pannel of our Jury, and the Reason of the Law does Order, that because it gives us liberty to except against them, and that we cannot know how to do, unless we inform our selves of the Men, and therefore I beg, that I may have a Copy of the Pannel.

L. C. J. Holt. As for having a Copy of the Pannel, the Court grants it. Let them have a Copy of the Pannel.

C. of A. Here is one ready for you.

Mr. Sol. Gen. There was Direction given that there should be one ready.

Mr. Ashton. We have demanded it every day since we had notice of our Tryal.

L. C. Baron. You could not have it till there was an Issue joyned, and that could not be till you had Plead.

L. C. J. Holt. And as to the putting off your Tryal, I know not to what time to put it off.

L. Preston. My Lord, I am willing to have this matter Tried as soon as possible, for it cannot but be uneasie to me to lie under these Accusations; but some of my Witnesses live in the Country, at a remote distance; if it may be next Term my Lord, or the next Sessions; for, if I have a Copy of the Pannel to Night, and am to be Tried to morrow Morning, How can I provide for my Defence? I cannot be prepared to except against the Jury, and I am sure you will be tender, and consider the Case of a Man, whose Life and Fortune are concerned in this Business.

L. C. J. Holt. To put it off till the next Term is to remove it out of this Court, that we cannot do, and to put it off till after the Term will be too long a time.

L. C. J. Pollexfen. We cannot sit here after *Monday*, because the Term begins on *Tuesday*.

L. Preston. My Lord, this Term is always a short Term, and if I be Tried to morrow, it is Trying me without giving me time for my Defence.

Mr. Sol. Gen. My Lord, there has been all the care taken that the Nature of the Thing was capable off, to prevent any complaint of this kind,

Order

Order was given, that my Lord and these Gentlemen should have notice as early as was possible. As soon as ever Mr. Attorney General had had an opportunity of looking into the Evidence, notice was given them, that they should be Tryed, and that this was the day appointed for their Tryal. But there shall be no contending in a Matter of this Nature, for a day. If it be desired, and the Court please to put it off till morrow, we are contented, but there can be no reason to put it off for a longer time. As there is always a tenderness to be used, and I know will be, and as far as I am concerned, always shall be towards Persons in these Circumstances, so there is a regard to be had towards the Government and the Publick. I am sure if the Accusation that is against these Gentlemen is true, the Government is highly concerned that this Matter should come to a speedy Examination, and that Persons that enter into such Designs be brought to Judgment: The Charge in the Indictment is of such a Nature as draws very great Consequences along with it, it concerns no less then the Life of the King and Queen, the Destruction of the Fleet of the Kingdom, and the Invasion of the Realm by the Forces of a Declared Enemy. These are the things that the Prisoners are charged with, and certainly there ought to be no delay in the searching into such Matters as these. They have had a Weeks notice of Tryal already, and for many days of that week at least they have had as many Counsel to assist them as they desired, and all the Solicitors that they had a mind to, have had free access to them, so that they have wanted no opportunity to prepare for their Tryal that Men in their Circumstances could have. As to what has been said with relation to the Jury, the Law indulges them in the Number of their peremptory Challenges without being put to shew Cause, and the Court hath granted them at the very instant of their Pleading a Copy of the Pannel, and there is a reasonable time between this and to morrow for their making such Enquiry into the Jury as is justifiable and fit to be made. But if by time to look into the Jury, it be meant, that there may be a time for tampering, that I am sure your tenderness of the Government will not permit, you will take care as much that no such thing be done, as you will, that they should not be surprized. If your Lordships are pleased, that the Tryal be put off till to morrow, we will be ready to morrow to attend it.

L. Preston. My Lord, 'tis a very hard presumption that Mr. Solicitor makes of our asking a Copy of the Pannel, that it is with a design to tamper with the Jury.

Mr. Sol. Gen. I did not say so, but I said till to morrow was time enough to make a Justifiable Enquiry.

L. Preston. But if I be to be tryed to morrow, I am willing to be tryed to day, for I am as ready now as I shall be then.

L. C. J. Holt. It may be so, and as ready as you will be after the Term: But I know not what your Lordship means by expressing such resentment, that because you can't have what time allowed you would, therefore you will have none, but be tryed now.

L. C. J. Pollexfen. You may have time enough to prepare your self as to the Jury certainly between this and to morrow.

Mr. Serj. Thompson. My Lord, we that are for the King have given these Gentlemen notice long enough to be prepared, if we should try them now, for that's the time we gave notice for, but because we would indulge them as far as we could, we are willing that they should have till to morrow, and intending them that kindness, are not ready to try them to day, and there can be no pretence for them to put off this Tryal any longer, for there can be no want of Evidence as to the Fact we charge them with, for all the Evidence that

we shall bring against them was taken from themselves, or the greatest part of it.

L. C. J. Holt. Well, What time will you be ready then?

Mr. Serj. Tompson. To morrow morning.

L. C. J. Holt. Then to morrow at Eight a Clock you are to be tryed.

L. C. Pollexfen. My Lord *Preston*, do but consider you had seven days notice, and to morrow makes eight.

L. C. J. Holt. You had notice for this day this day seven night.

Mr. Ashton. But we have had only three days time to consult with our Council, though we desired we might have our Council come to us that day.

Mr. Sol. Gen. They were told, they must apply themselves to the King for that at the same time.

Mr. Ashton. We did do so that night to my Lord *Sydney*, then Sunday interven'd, which was no day for Business, and we could not have our Order. On Monday we could not have it till night; so that it was Tuesday before we could get any Body to us. My Lord it is a Weighty concern, and all such hasty Proceedings were thought very hard in the late Times, and particularly the denying Mr. *Cornish* time, and 'tis one of the Reasons given in this Kings Declaration for his coming here into *England*, the hardships that the Law laid upon Men in their Tryals, which he came to prevent.

L. C. J. Pollexfen. The hardship that was upon Mr. *Cornish* was, that he was taken upon the Tuesday off from the *Exchange*, and tryed before that day seven night, and that was hard indeed; but besides, he was taken about his Business off from the *Exchange*, I know not whether you were about your Business, your Lawful Business, when you were taken, God of Heaven knows that. And pray consider here is a matter of very great consequence on the one side and on the other: For if Men be Plotting against the Government, to give them time to carry on their Plots will be mischievous on that side.

Mr. Ashton. My Lord, till that be legally proved before your Lordships, that is but a supposition.

L. C. J. Pollexfen. That will lie upon them to prove.

L. C. J. Holt. Mr. *Ashton*, we are to suppose you not Guilty, till you are proved Guilty.

Mr. Ashton. Then my Lord, the Law says we may except against so many Persons, what is the end of the giving us a Copy of the Pannel, 'tis not to be presumed we can do it by their Faces, for what can I say to the Face of one I never saw: We must enquire concerning the Men, and that is a work of time, for some of these Gentlemen I presume live eight or ten miles out of Town, Is it possible for me before to morrow morning eight a Clock to send to 35 Men to enquire after them?

L. C. J. Holt. No, nor is it intended you should.

L. C. J. Pollexfen. Nay, if you intend to send to the Jury-Men, we have no reason to give you time.

Mr. Ashton. I mean to enquire after the Men, their Lives, what Religion they are of, what sort of Men they are.

L. C. J. Holt. I suppose they are all Protestants of the Church of *England*, but suppose they are all Strangers to you, and yet good and lawful Men of the County, and there be no difference between you and them, then they are fit to try you.

Mr. Ashton. 'Tis true my Lord, but if I have liberty to except against 35, I ought to know something of them.

L. C. J. Pollexfen. Yes, and inform your self as well as you can of them, but not to send to them, that is not to be permitted.

L. Preston.

L. Preston. There is another Point to enquire of them, and that is, Whether they be Freeholders or not?

L. C. J. Pollexfen. We have neither your Lordships Affidavit, nor the Oath of any other Person, only an Allegation.

L. C. J. Holt. My Lord, you must expect your Tryal to Morrow Morning, we cannot put it off, we are limited in time, the Sessions can hold no longer than Monday, because of the Term.

Mr. Ashton. Then will your Lordship please to put it off till Monday?

L. C. J. Holt. No, we shall not have time to do it, it may be a long Tryal.

L. Preston. I protest to your Lordships I cannot be ready to Morrow to make that Defence I desire, and design to make, and which I may make if your Lordships give me a longer day.

Clerk of Arraignments. Here is a Copy of the Pannel for your Lordship.

It was delivered to the Lord Preston, who gave it to his Solicitor.

Mr. Ashton. My Lord, we shall not have time to enquire into the Jury.

L. C. J. Holt. Look you, we are not bound to do this, but you have it as soon as you have Pleaded.

Mr. Ashton. My Lord, it will take up 5 or 6 Hours in writing of it out, and we must each have a Copy.

Mr. Sol. General. They are all joyned in one Indictment, and have joynt-Counsel, and joynt-Solicitors, as we are informed.

Mr. Ashton. Then I hope you will allow us liberty till Monday for our Tryal.

L. C. J. Pollexfen. The Court cannot allow longer time; the Court here can sit no longer than Monday, and here must needs be a great deal of Business to do of the ordinary Business of the Sessions, and when that day comes, perhaps it will not serve to go through with the Tryal, and then it must be Adjourned till after the Term, and in the mean while some are in hopes the King of France may come and determine the Matter.

Mr. Ashton. Pray my Lord, Let no Suggestion against us, prepossess the Opinion of the Court before we be Tried.

L. C. J. Pollexfen. I don't Suggest any thing, but 'tis in the Indictment alleged against you, and that you are to be Tried upon, and if such things be there Suggested, as we would give you all reasonable time for your Defence, so we must take care that the Government sustain no hurt by delays.

L. C. J. Holt. It is observed by the King's Counsel, that they are Things of very great Consequence, and therefore they press for the Tryal.

L. C. J. Pollexfen. I cannot believe but that you will be as ready to Morrow, as you can be on Monday.

Mr. Ashton. The Government cannot be prejudiced by putting of it off till Monday, sure.

L. C. J. Pollexfen. The Evidence that is to Convict you, lies all on their Side that are for the King, and I cannot imagine, where your Witnesses should be, unless they are in France; but you had reason to expect your Tryal, being apprehended in the manner as you were, and to provide for it.

L. C. J. Holt. The want of Witnesses is only a Surmise, and a Pretence, for there is no Oath of any Witnesses that they want, or who they are; indeed if we had Oath made that they wanted material Witnesses, and to material Points for their Defence, that might be occasion for our further Consideration; but shall we put off a Tryal upon a bare suggestion of the want of Witnesses, sure that was never done.

L.C.J. Pollexfen. Name any one particular Man that is your Witness, and the particular thing that he can prove, for if any of your Witnesses do know any thing of this kind, it must be particulars and not Generals; If you will not name them, it is plain, it is only a pretence you insist upon for delay.

Mr. Ashton. My Lord, I insist upon the point of the Jury, that we have not time to look after them.

L.C.J. Holt. Then that of the Witnesses is waved.

L. Preston. 'Twas I that desired Time for my Witnesses.

L.C.J. Pollexfen. But you neither name them, nor bring us any Oath about them, or of any thing they can prove for you.

L.C.J. Holt. Pray don't spend the time of the Court, nor your own time unnecessarily, you must prepare for your Tryal to Morrow.

Mr. Ashton. My Lord, there is not a person in Court, I believe, but will think it hard that we are so straitned in time.

L.C.J. Holt. The time you have had notice to prepare for your Tryal, is sufficient.

Mr. Ashton, Mr. Cornish's Case has been complained of as a very hard Case in this very respect, and we would hope, the King, that now is, came to Reform such abuses.

L.C.J. Holt. You have been already told, wherein the hardship of that Case lay, I am sure yours is not like it; but take notice, we will be Sitting here punctually at Eight.

L. Preston. Will your Lordship please to let us have our Counsel come to us, and our Friends.

L.C.J. Holt. Yes sure, you shall have all that is necessary for your Defence, that we can allow you, but unnecessary Delays must be avoided.

Then the Prisoners were taken away by the Keeper of *Newgate* to the Goal.

Sabbati xvii. January 1690.

THis Day between the Hours of Eight and Nine in the Morning, the Court being sat, and those Persons who were return'd upon the Jury were called over twice, and their Appearances Recorded; then the Prisoners were brought to the Bar.

Clerk of Arraignments. You the Prisoners at the Bar, these Men that you shall hear called and personally appear, are to pass between our Sovereign Lord and Lady our King and Queen, and you upon Tryal of your several Lives and Deaths; If therefore you, or any of you will Challenge them, or any of them, your time is to Challenge them as they come to the Book to be Sworn, and before they be Sworn.

L. Preston. My Lord, I beg your Lordship will inform me, whether if I have any thing to offer to the Court, it is proper before the Jury be impanelled, or after.

L. C. J. Holt. My Lord, I don't know what your Lordship has to offer, I think you have nothing to offer why the Jury should not be Sworn, for now your Lordship has put your Self upon your Tryal, and are going to proceed in that Tryal, and the Jury are going to be Sworn; if you have any thing to offer, as to them, you may Challenge them.

L. Preston. Truly my Lord, I have something to offer, but it is only what I did humbly offer yesterday, and that is, that my warning was so short, that I am not prepared for my Tryal. We had not above three or four days, wherein we might consult about it, all the former time we have been kept close Prisoners; we are now brought here to be Tryed, without having time to look into the Pannel of our Jury. The Pannel we had not till yesterday, and I humbly beg, that I may have some time to prepare for my Defence.

L. C. J. Holt. My Lord, this is that which you insisted upon yesterday. Your Lordship then said you wanted your Witnesses, and your Lordship did not then mention what Witnesses you wanted, nor was any Oath made of any one that you wanted; and therefore the Court over-rul'd you, and wished you to prepare for your Tryal, and would not put it off: For if it should not be to Day, but should be put off till another time, it must be the putting of it off till another Sessions; for we are streightened with it in point of time, for the Session can last no longer then *Munday*, and you have had convenient Notice.

L. Preston. Truly, my Lord, I think it is hard when my Life and Fortune, and all are concerned, that I should be hurried on to a Tryal, only because the Court is streightened in point of time; and yet that is the only Reason that I can perceive, why such haste is made. I desire a little more time to prepare my self; and I think it very hard I should be denied; I must submit it to your Lordships: If you will not allow me time, I cannot make my Defence as I would.

L. C. J. Holt. My Lord, as to the shortness of the time, that is no Objection; you have had convenient Notice, as much Notice as the Law requires, and as much time as without particular cause shewn, hath here at any time been given in such a Case. If indeed there had been any particular Reason offered for putting off the Tryal, and you had made it appear by Oath, the Court possibly might have put off the Tryal; but because your Lordship only suggested you wanted a Witness, naming neither Person, nor Place, or Matter such Witness should prove, they are of Opinion no cause appears for such delay of your Tryal.

L. Preston. My Lord, I assure you I am not prepared for my Tryal.

E. C. J. Holt. My Lord, the Court over-ruled this Matter yesterday, it cannot be put off.

Mr. Sol. Gen. My Lord, I would humbly offer your Lordship one thing before the Jury be called and sworn. By the Law, these Gentlemen at the Bar have the Privilege to challenge peremptorily to the Number of 35; which is so great a Number, that if each of them severally take advantage of it, (as they may do by Law, and God forbid they should be denied any advantage the Law gives them) it will be next to impossible to have a sufficient Number of Jurors appear so as that we may proceed in the Tryal.

L. Preston. Truly, my Lord, we don't hear what Mr. Solicitor says.

L. C. J. Holt. Do you not? Then I'll tell you what he says when he has done: Go on, Mr. Solicitor.

Mr. Sol. Gen. My Lord, all that I would know of them is, Whether they intend to take the Advantage that the Law gives them, of single and particular Challenges; for then they must be tryed severally: Or whether they will be content that the same Persons that are challenged by any one, shall stand challenged for all three. I leave it to them to take their own choice; let them do what they please in it.

L. C. J. Holt. My Lord *Preston*, Mr. Solicitor tells you what the Law is, that every one of you may challenge Five and thirty without Cause; and if the Court should proceed to try you all together, and every one of you should challenge Five and thirty, perhaps a sufficient Number will be wanting to try you, the Number challenged will then amount to 105 in all. If so be you agree in your Challenges, that what one challenges shall be challenged by the other two, then the Court will go on, and try you all together, otherwise they will be forced to sever you; therefore he desires to know, whether you will joyn or sever in your Challenges.

Mr. Sol. Gen. Take your own choice, Gentlemen, and do what you think best.

L. Preston. My Lord, the Matter of Challenging is so great an Advantage to a Man upon his Life, that for my part I must insist upon that which the Law gives me, to challenge as many for my self as I think fit, to the Number that the Law allows me.

L. C. J. Holt. My Lord *Preston* says, he will, as 'tis fit he should, take all Advantages he can; What says Mr. *Ashton* to it?

Mr. Ashton. My Lord, I expect the same Advantage.

L. C. J. Holt. You must have it; it is not proposed to preclude you from any Advantage that the Law allows you: If you insist upon that Advantage, you must have it, and then you must be tryed severally.

Mr. Sol. Gen. Then, my Lord, since they are pleased to declare they will sever in their Challenges, we must desire to sever them in their Tryal, and to begin with the Tryal of my Lord *Preston*.

Mr. Ashton. My Lord, I desire the Liberty to be by when my Lord is tryed.

L. C. J. Holt.

L. C. J. Holt. No, no, that is not to be permitted.

Mr. Serj. Tompson. If you had joyned in your Challenges, then you had been tryed all together.

L. C. J. Pollexfen. That Advantage you lose by severing in your Challenges; you lose the Assistance of each other at your Tryal.

L. C. J. Holt. That is the consequence; but do as you please; set them by.

L. C. J. Pollexfen. It may be they do not so well weigh the consequence, therefore call them again. Gentlemen, Do you consider the consequence of your not joyning in your Challenges? You must not be by if my Lord Preston be tryed by himself, but must withdraw; and thereby you will lose the Advantage of helping one another.

Mr. Elliot. My Lord, I desire to be tryed alone.

Mr. Ashton. And so do I, my Lord.

L. C. J. Holt. Then, Captain Richardson, take them away.

Afterwards the Court was informed that *Mr. Elliot* desired to be tryed with my Lord Preston, and thereupon they were called again.

L. C. J. Holt. Gentlemen, Do you desire to be tryed alone, or with my Lord Preston?

Mr. Elliot. My Lord, if you please, I desire to be tryed with my Lord.

Mr. Sol. Gen. Does *Mr. Ashton* desire it too?

Mr. Ashton. No, my Lord, I desire to be tryed by my self.

Mr. Sol. Gen. Then we will try my Lord Preston by himself.

L. C. J. Holt. *Mr. Elliot*, the King's Council do not think fit to try you with my Lord Preston, without *Mr. Ashton*; and unless you will all joyn, you must all be tryed severally.

Mr. Elliot. I can only answer for my self.

Mr. Ashton. I am for being tryed alone.

L. C. J. Holt. Then my Lord Preston must be tryed alone.

The other two were carried back to Newgate, and the Lord Preston was bid by the Clerk to look to his Challenges.

Cl. of Arr. Sir Goddard Nelthorpe Baronet. *Challenged.*

Sir Thomas Cooke Kt. *Challenged.*

Sir William Hedges Kt. *Challenged.*

James Boddington Esq. *Challenged.*

Thomas Johnson Esq. *Challenged.*

Ralph Barkwal Esq. *Challenged.*

Craven Peyton Esq. *Challenged.*

E. Preston. I do not except against him.

Cl. of Arr. Then swear *Mr. Peyton.* (Which was done.)

Lucy Knightley Esq. *Challenged.*

Seory Barker Esq. *Challenged.*

Thomas Cuthbert Esq. *Challenged.*

Alban Chaire Esq. *Challenged.*

John Herbert Esq. *Challenged.*

Hugh Squire Esq. *Challenged.*

E. Preston. I have nothing to say to him. *Sworn.*

Cl. of Arr. John Tully Esq. *Challenged.*

George Ford Esq. *Challenged.*

E. Preston. I do not challenge him. *Sworn.*

Cl. of Arr. Henry

Cl. of Arr. Henry Whitchcot Esq;

Challenged.

John Crosse Esq; Not appeared.

Thomas Smith Esq;

Challenged.

William Withers Esq;

Challenged.

Richard Cradock Esq;

Mr. Cradock. My Lord, I know not how I came to be summoned upon this Jury; for I am no Freeholder.

L. C. J. Holt. Then set him aside.

Cl. of Arr. John Cane Esq;

Challenged.

William Jacomb Esq;

Mr. Jacomb. My Lord, I am no Freeholder.

L. C. J. Holt. How long have you not been a Freeholder?

Mr. Jacomb. Near this Four Months.

L. C. J. Holt. Give him his Oath. (Which was done.)

Have you no Freehold in the County of Middlesex in your own Right, nor in the Right of your Wife?

Mr. Jacomb. No, my Lord.

L. C. J. Holt. Then you must go on to the next.

Cl. of Arr. Joseph Dawson Esq;

Mr. Dawson. My Lord, I am an ancient Man, and not fit to serve upon the Jury.

L. C. J. Holt. Well, now you are here, for this time, serve; we will excuse you hereafter.

Mr. Sol. Gen. My Lord, we challenge him for the King.

L. Preston. My Lord, I desire to know when any one is challenged for the King, whether they must not shew cause.

L. C. J. Holt. By and by, if there be not enough, they shall shew cause.

L. C. J. Pollexfen. You shall have all that the Law allows you certainly, my Lord.

Cl. of Arr. Thomas Austin Esq; Not appeared.

Richard Paget Esq;

L. Preston. Has this Gentleman any Freehold?

Mr. Paget. Yes, my Lord, I have in the County of Middlesex.

L. Preston. I do not except against him.

Mr. Serj. Tremain. My Lord, we challenge him for the King.

L. Preston. My Lord, I humbly desire they may shew their Cause.

L. C. J. Holt. My Lord, Cause is not to be shewn by the Kings Counsel till all the Panel be gone through; and then, if there be not Twelve left to try, then they are bound to shew Cause; that is the Law.

L. Preston. My Lord, it is a thing of a very tender concern to me; I desire to know, If it be not usual that they should assign the Cause, when they Challenge any for the King: For if it be not according to Law, it may be a prejudice to me; and I desire I may have Counsel heard to that Point.

L. C. J. Holt. My Lord, shall we assign Counsel to dispute Matters not disputable? If there is not any more clear Case in all our Law, than that: If your Lordship please, you shall have a Book to read, that the King is not bound to shew Cause till the Panel is perus'd.

L. Preston. Then I don't insist upon it.

Cl. of Arr. Walter Bridal Esq;

Challenged.

Samuel Hodgkins Esq;

Challenged.

Thomas Elton Esq;

L. Preston.

L. Preston. I do not challenge him.

Mr. Serj. Tremain. Then we challenge him for the King.

Cl. of Arr. Arthur Bayly Esq;

L. Preston. I have nothing to say against him. *Sworn.*

Cl. of Arr. John Milner Esq; *Not appeared.*

Richard Page Esq;

L. Preston. I do not except against him.

Mr. Serj. Thomson. Then we challenge him for the King.

Cl. of Arr. Richard Marsh Esq;

Mr. Marsh. My Lord, I desire to be excused; I am not fit to serve upon a Jury.

L. C. J. Holt. Why?

Mr. Marsh. I am thick of hearing.

L. C. J. Holt. Methinks you hear me very well.

Mr. Marsh. Truly, my Lord, I do not hear well.

L. C. J. Holt. Well, you may spare him, if there be enough.

L. Preston. My Lord, I do not challenge him; I desire he may be sworn.

Mr. Serj. Tremain. We challenge him for the King.

Cl. of Arr. Thomas Harriot Esq;

Challenged.

Nath. Wall Esq;

L. Preston. I do not except against him.

Mr. Sol. Gen. We challenge him for the King.

Cl. of Arr. Matthew Browne Gent.

L. Preston. I do not challenge him.

Mr. Serj. Tremain. We challenge him for the King.

Cl. of Arr. Thomas Crosse Gent. *Not appeared.*

Robert Bredon Gent.

L. Preston. I have nothing to say against him.

Sworn.

Cl. of Arr. James Partherick Gent.

Challenged.

John Bayly Gent.

Challenged.

William Bourne Gent.

Challenged.

Henry Gerrard Gent.

Challenged.

Richard Cooper Gent.

L. Preston. I say nothing to him.

Mr. Serj. Thomson. I challenge him for the King.

Cl. of Arr. John Bignal.

L. Preston. I do not challenge him. *Sworn.*

Cl. of Arr. James Firne Gent.

L. Preston. I do not challenge him. *Sworn.*

Cl. of Arr. Robert Longland Gent.

Challenged.

Edmund Salter Gent.

Challenged.

John Hewlet Gent.

Challenged.

Richard Fitz-Gerald.

L. Preston. I do not except against him.

Mr. Serj. Tremain. We challenge him for the King.

Cl. of Arr. John Owting Gent.

L. Preston. I do not except against him. *Sworn.*

Cl. of Arr. Mark Lawne.

L. Preston. I do not challenge him. *Sworn.*

Cl. of Arr. Thomas Battle. *Not appeared.*

Francis Chapman Gent.

Challenged.

Gilbert

Gilbert Urwin Gent.

Richard Bealing Gent.

Edward Fuller Gent.

L. Preston. I do not Challenge him. Sworn.

Cl. of Ar. John Collins Gent.

L. Preston. I don't Challenge him. Sworn.

Cl. of Ar. Thomas Hollings.

L. Preston. I have nothing to say against him.

Mr. Ser. Tremain. We Challenge him for the King.

Cl. of Ar. William Silcock Gent.

L. Preston. I do not Challenge him.

M. Serj. Tremain. We Challenge him for the King.

Cl. of Ar. John Preston Gent.

Thomas Wright Gent.

Benjamin Boulby Gent.

L. Preston. I do not Challenge him. Sworn.

Challenged.
Challenged.

Challenged.
Challenged.

Then they were counted, and the Twelve Sworn were those whose Names follow.

J U R O R S,

Craven Peyton Esq;

Hugh Squire Esq;

George Ford Esq;

Arthur Bailey Esq;

Robert Breedon Gent.

John Bignal Gent.

James Ferne Gent.

John Owting Gent.

Mark Lawn Gent.

Edward Fuller Gent.

John Collins Gent.

Benjamin Boulby Gent.

Then Proclamation for Information and Evidence was made, as usual.

Cl. of Ar.

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Ch. of Ar. Sir Richard *Grahme*, Hold up your Hand—(which he did) —
Gentlemen, you that are Sworn, look upon the Prisoner, and hearken to his
Cause. He stands Indicted by the Name of Sir *Sir Richard Grahme*, late of
the Parish of *St. Anne* within the Liberty of *Westminster* Baronet, together
with *John Ashton*, &c. — *as* in the Indictment *mutatis mutandis* —
and against the form of the Statute in that Case made and provided; upon
this Indictment he hath been Arraigned, and thereunto hath pleaded *Not*
Guilty, and for his Tryal hath put himself upon God and his Country, which
Country you are; your Charge is to enquire, whether he be Guilty of this
Felony and High Treason whereof he stands Indicted, or Not Guilty; if you
find that he is Guilty, you are to enquire what Goods or Chattels, Lands or
Tenements he had at the time of the Felony and High Treason Committed,
or at any time since: If you find him Not Guilty, you are to enquire whe-
ther he fled for it, if you find that he fled for it, you are to enquire of his
Goods and Chattels, as if you had found him Guilty; If you find him
Not Guilty, nor that he did fly for it, you are to say so, and no more,
and hear your Evidence.

Mr. Knapp. May it please your Lordship, and you Gentlemen of the Jury,
This is an Indictment of High Treason against my Lord *Preston*, who is In-
dicted by the Name of Sir *Richard Grahme* Baronet, and stands now Prison-
er before you at the Bar; and the Indictment sets forth, that the Prisoner,
together with one *John Ashton*, and one *Edmund Elliot*, as false Traitors
against our Sovereign Lord and Lady King *William* and Queen *Mary*, not
weighing the Duty of their Allegiance, the 29th of *December*, in the Se-
cond year of their now Majesties Reign, at the Parish of *St. Clements Danes*,
in this County of *Middlesex*, did Conspire, Consult and Imagine to Depose
Their Majesties from the Throne and Government of these Kingdoms, and
to bring the King and Queen to final Death and Destruction, and to Levy
War within this Kingdom, and procure an Invasion to be made here; and
that to bring their Treasons to pass, they did prepare and compose, and
cause to be prepared and composed divers Treasonable Letters, Notes, Me-
morandums, and Instructions in Writings, which were to inform the French
King and his Subjects, and other Enemies of the King and Queen, of the
Number, Force and Condition of Their Majesties Ships, and how some of
them were Mann'd, and the Names of several of the Commanders of them,
and how the Castles and Ports of *Portsmouth*, *South-Sea* and *Gosport* within
this Kingdom were fortified, and how they might be Seized and Surprized
by the King's Enemies; as also to inform them of the time, places, ways
and means how they might Invade the Kingdom, Depose Their Majesties,
and Fight with their Ships against Their Majesties Ships, and cause and pro-
cure great Forces to be raised against the King and Queen, and send Ships to
plague the City of *London*, and War and Rebellion within the Kingdom to
procure; and that they did knowingly and secretly prepare and conceal two
several Bills of Exchange for the payment of Money to the King's Enemies,
and got these Bills of Exchange, Letters, Notes and Memorandums into
their Custody; and afterwards, the 30th day of *December*, for the Sum of One
hundred pounds, by them, or some of them paid, they did hire a Ship to car-
ry them and the said Bills of Exchange, Letters, Notes, Memorandums, and
Instructions, into parts beyond the Seas, to, and among their Majesties En-
emies; and did also prepare a Boat, which was to carry them to the Ship.

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and accordingly they went into the Boat, and went on Board the Ship with the Bills of Exchange, and Papers aforesaid ; and being on Board, they set Sail, and made away towards *France* with those Bills of Exchange and Papers, with intention to disperse them, and to perfect their said Treasons. And the Indictment further sets forth, that there was, and is a War between Our King and Queen, and the French King, and the People of those parts, under his Dominions, who are Enemies of the King and Queen ; the Prisoner, together with those other two named before, as false Traitors, did adhere to the Enemies of the King and Queen, and to bring about this Treason, they did procure such Bills of Exchange, Letters, Notes, Memorandums and Instructions, and did hire such Ship and Boat to carry them and those Papers into *France*, and did go on board the said Ship, and Sailed away for *France*, with intention to aid and assist the King's Enemies in Counsel and Intelligence, by those Papers and Bills of Exchange, as I before opened unto you, and this is laid to be against the Duty of his Allegiance, against the Peace of Their Majesties, Their Crown and Dignity, and against the Form of the Statute in that Case made and provided. To this Indictment, Gentlemen, the Prisoner Pleaded he is Not Guilty, and for his Tryal hath put himself upon his Country, which you are ; if we prove him Guilty, it is your Duty to find him so.

Mr. Sol-Gen. My Lords and Gentlemen of the Jury, the Indictment hath been opened to you at large, and I do not doubt but you have observed it : It consists of two Parts, which are formed upon two several Branches of the Statute of the 25th of *Edward 3.* the one is for compassing and imagining the Deposing and Destruction of the King and Queen ; the other, aiding and assisting the King and Queens Enemies.

Treason, Gentlemen, consists in the imagination of the Heart, but because that imagination of the Heart can be discovered no other way but by some open Act ; therefore the Law doth require, that some Overt Act, manifesting that Intention and Imagination, be assigned and proved. I doubt not but you have observed that there are several Overt-Acts of both these kinds of Treason, assigned in this Indictment.

Gentlemen, the general Design of the Conspiracy (as will appear by the Evidence) was this : The King and Queen were to be Deposed, and this was to be effected by a French Army and a French Fleet.

It will be easily Granted, that nothing more dreadful can enter into the Imagination of an English-man, than the destruction of our Fleet, and the Conquest of the Kingdom by the Arms of *France*.

But yet it will be part of the Evidence that we shall offer to you, that the Prisoners, and others of the Conspirators seem to be of another Mind, for amongst the Papers which were taken with the Prisoners, you will see one, which is styled, *The Result of a Conference*, wherein they pretend to shew the possibility of Restoring King *James* by the Power of the French King, and yet to preserve the Protestant Religion, and the Laws and Liberties of the Kingdom. They themselves went no farther than to think it possible, and I believe it will be hard to perswade any other English-man, that it is possible, unless one Instance could be given, that the French King ever employed his Arms for setting up any Body but himself, his own Religion, and his own Government. I never heard that he did pretend to Form any part of his Glories upon the virtue of Moderation, or Self-denial. And there can hardly

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hardly be imagined a greater Instance of Self-denial, than for the French King, after he had destroyed the Dutch and English Fleets, and subdu'd our Forces at Land, not to make use of his Success, so as to add these Three Kingdoms to his Conquests, and possess himself of the uncontested Dominion of the Sea for ever, but only to Intitle him at so great hazard and Expence, to become a Mediator between King *James* and the People of *England*, and by his Mediation, to establish the Protestant Religion, and the Liberties of the People; And yet as absurd as this seems, you will find this to be the Result of one of their Conferences. I did never think it was the part of any who were of Counsel for the King in cases of this Nature, to endeavour to aggravate the Crime of the Prisoners, by going about to put false Colours upon Evidence, or to give it more than its due weight; and therefore I shall be sure to forbear any thing of that Nature. But I think it my Duty, to give you some Account of the Nature and Course of the Evidence to be produced to you, which consisting of several sorts, it will be in some sort necessary to open it, that you may the more clearly apprehend it, and with more ease make your Observations upon it.

Gentlemen, we shall produce in Evidence, as well living Witnesses, as Papers and Writings, which by a strange kind of Providence were taken upon my Lord *Preston*, and the other two Persons named in the Indictment when they were Apprehended; and therein this Design that I have opened to you, will be made Evident beyond all contradiction.

As to the living Witnesses, the course of the Evidence will be this. One *Nicholas Pratt*, is the Owner of a Smack, called the *Thomas and Elizabeth*, he does usually entrust his Wife *Jane Pratt* with the Hiring out of this Smack; *William Paveley* is Master of the Vessel, and has of late been made a Part-owner, to protect him from being Press'd; for it is a Priviledge that the Owners of Vessels claim, not to be Press'd.

Some time since, (the Witnesses will tell you the precise time) this *Jane Pratt* was sent for to one Mr. *Burdett's* House in the City, where she met with Mr. *Ashton*, who desired to know, whether she could undertake to Convey him and some others, with safety into *France*. She said, she did not doubt but she could do so; and thereupon Mr. *Ashton* told her, That he and his Friends were Merchants and Traders, and that they should make great advantage, to the value of a Thousand pounds at least, if they could be there quickly; their Discourse went no farther at that time, but Mrs. *Pratt* was appointed by Mr. *Ashton* to bring the Master of the Vessel along with her, for he had a mind to Discourse himself with the Master, and they wereto meet at the *Wonder Tavern* in *Ludgate-street*; and because there should be no mistake about the Meeting, Mr. *Ashton* gave the Woman a Note of Direction in Writing, ready to be produced.

Accordingly by the 29th of *December*, Mrs. *Pratt* and the Master came to the *Wonder Tavern*, where Mr. *Ashton* met them, and there they Treated of the Price to be given for the Hiring of this Vessel to carry them to *France*, and I think 150 Guineas was the Sum then insisted upon, but no Bargain was made at that time, but there was a new Appointment to meet the next day, which was the 30th of *December*, at Mr. *Burdett's* House.

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The next day when she and the Master came thither, they found there together *Ashton* and *Ellyot*, the two other Persons named in the Indictment, and there this Matter was treated of with great secrecy in Mrs. *Burdet's* Bed-Chamber.

And they came to an Agreement, that 100*l.* should be the Sum to be paid to Mrs. *Pratt* for conveying into France *Ashton* and *Ellyot*, and two other Persons; So the Contract was Originally made for others besides Mr. *Ashton* and *Ellyot*, and the Money was actually deposited by Mr. *Ashton* and *Ellyot* in Mrs. *Burdet's* Hand, and a Six-pence was broken, one half of which was delivered to Mrs. *Burdet* to keep, the other half Mr. *Ashton* was to take along with him, and when the Master had safely landed them in France, Mr. *Ashton* was to deliver his half of the Six-pence to the Master; which being brought to Mrs. *Burdet* either by him or Mrs. *Pratt*, upon the joining of the two pieces together, the Master was entitled to receive the Hundred Pounds.

The next Appointment was to meet at one Mr. *Rigby's* House in Covent-Garden, and that was to be on the One and thirtieth of December, when the Voyage was to be begun: And the Tide not serving to go through Bridge till late, the appointment was to meet the later. When they, Mrs. *Pratt*, and the Master came there, they found only Mr. *Ashton* and Mr. *Ellyot*, but before that time care was taken to provide a Sculler at Surrey-Stairs to be ready to carry them on board the Smack, and the Waterman was appointed to stay in a little Ale-House thereabouts to be ready when he should be called.

About Ten a Clock at Night four Persons came down together, and went into this Sculler with the Master of the Smack, and made what haste they could through Bridge till they came to Pickle-herring Stairs over-against the Tower, where the Smack lay, and there went aboard the Master and these four Persons, my Lord *Preston*, a Servant of my Lord *Preston's*, Mr. *Ashton*, and Mr. *Ellyot*.

The Smack set sail immediately after they were on Board, and their haste made them carry away the Watermans Coat which he had lent them whilst they were in the Sculler, and that accident was the occasion of discovering who the Waterman was that carried them from Surrey-Stairs.

After they were on Board the Smack, they were possessed with great fear of being surpris'd, they knew the nature of the Business they were about, and the danger they were in if they should be discovered, and therefore when they were to pass by the *George* Frigate, a Man of War that lay in the River, they desired the Master to hide them, which he did by putting them under the Quarter-Hatches, a place where they could not stand or sit, but must lie along on the Ballast. When they were passed by the *George* Frigate, they quitted that place, but when they were near the Block-House at Graves, they grew apprehensive, and they desired to be hid a second time, which was accordingly done.

And they continued to lie in that place till they were taken, and it was a happy thing they did so, the place was such that they had not any possibility of throwing away their Letters and Papers, though they had made preparation for it in case of any Accident, having tied them together, and fix'd a piece of Lead to them, that so if they saw themselves in danger of being taken, they might easily sink the Pacquet; But being so close shut up in this place, that they could not execute their purpose, the Papers were taken, and will be offered to you in Evidence.

Gentle-

Gentlemen, Captain *Billop* by the Order of a Noble Lord now present, was directed to use his utmost diligence to seize some dangerous Persons, of whose Design of going beyond Sea for some very ill Ends, an Intimation had been given. He got ready a Pinnace well Mann'd, and went in pursuit of them down the River, and both as he went and return'd, he took care to search suspected Vessels; when he came to this, he demanded of the Master what Number of Men he had on Board, pretending he came to Press Men; the Master told him he had but three, and for those he had a Protection. But the Captain said he must be better satisfied, and must search the Vessel, and in the search he found these four Persons lying concealed in this secret place, under the Quarter-Hatches.

As they were taken out one after another, one of the Seamen observed Mr. *Astton* to take up a Bundle of Papers from off the Ballast, and put it in his Bosom, and near the place where Papers lay, he took up two Seals, which after proved to be my Lord *Preston's* Seals when he was Secretary. Captain *Billop* being inform'd of this by that Seaman, he put his Hand into Mr. *Astton's* Bosom, and took away from him the Bundle of Papers with the Lead fix'd to it.

When they were put on Board the Captain's Pinnace, they all pressed him much, that he would let them go on shore at *Gravesend*, pretending want of Refreshment, they not having eaten, and the Night having been cold, but he did not think that proper, nor safe, but told them, they should go on Board the *George Frigate*, and refresh themselves there.

When they came on Board the *George Frigate* all the three Gentlemen, and my Lord *Preston* in particular, were very earnest with Captain *Billop* to dispose of the Bundle of Papers, mixing extraordinary Promises, with great Complements.

Not prevailing there, when they were return'd to the Pinnace, they renew'd their Sollicitations, and one of them told him, it would be easie to remove all Suspicion by fixing the Lead to some other Papers of little significations, which were found in my Lord *Preston's* Pocket, which he might produce, and they would without difficulty pass for the Papers that were taken.

But the Captain was too Just to comply with this Proposal. When they found he was not to be moved, you will find from the Witnesses, that their Promises were turned into Threats, and they used another sort of Language.

When they were brought to *Whitehall* Stairs, upon their Landing they gave Money to the Master and the Seamen, desiring them to say, they were hired to go for *Flanders*, and not for *France*.

Gentlemen, these things which I have opened carry a strong Presumption of Guilt, for *Englishmen*, especially one of that Quality of my Lord *Preston*, to go into the Country of an Enemy without any manner of Passport, and in such a manner as they could not expect but to be seized for Spies, unless they were assured, that their Character was so well known there, that they should be look'd upon not as Persons coming to get Intelligence, but to give it, unless they were well assured of a good Reception, when they came there.

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But there is no occasion to leave any thing to Conjecture in this Case, what is contained in these Papers makes the Design of the Voyage beyond dispute. I think, Gentlemen, after you have heard the Evidence, you will be very well satisfied, that my Lord Preston and the other two who stand Indicted, were equally concerned in the Papers; they were all alike earnest to preserve them from being seen, they all solicited for the disposing of them, and promised Rewards if they might prevail.

Gentlemen, these Papers are of various Natures.

One I mentioned before, is Entituled, *The Result of a Conference between several Lords and Gentlemen, both Tories and Whigs*, in which it was undertaken to prove the Possibility and Methods of Restoring King James by a French Power, without endangering the Protestant Religion, and the Civil Administration according to the Laws of this Kingdom.

Another contains Heads for a Declaration to be prepared, in order to be published when the French have had Success at Sea, and are Landing, and that is filled with such Pretences as they thought most Specious, and most likely to amuse and delude the People.

There is another sort of these Papers which consists of Letters. These Letters are directed in False Names, and are not subscribed, and it is not to be imagin'd it should be otherwise. Yet, Gentlemen, (though that is not the present Business) the Hands of the Writers of these Letters are very well known, and the Subject Matter of them will easily reveal to you for whom they were intended, for though these Letters are most of them Written under divers Cants, some under the Colour of Trade, some of them under the Colour of a Law-Suit for the Redeeming of a Mortgage, others under the Notion of a Match, and a Settlement to be made upon that Match, yet the real Business is so plain, that you need but hear them read to see through the Disguise.

Though they begin generally in the Style of Merchants Writing to one another, or the like, yet towards the end of the Letters you will observe Expressions of Duty and Reverence (terms which do not usually pass in a Correspondence between Persons of that sort) sufficient to shew, that somewhat else was intended to be covered in what went before.

Gentlemen, It will appear to you, that some of the Writers of these Letters were of the Number of those who were secured the last Summer when the French Fleet was upon our Coasts, and you will observe they complain, that by reason of that Restraint, the Design was very much hindered, though they have endeavoured to redeem that loss of time since their Discharge, and have carried on the Business with more vigor than ever.

In short, The design of these Letters is to importune the setting out of the *French* Fleet with all possible Expedition : They say they must not suffer such a fit Season to be spent unprofitably ; That the best time is between this and the first of *March* to come to a good Market ; and if they come not before the 10th of *March*, all will be lost. In another of their Letters they say, If the Suit be well solicited and managed, it may come to a final hearing before the end of *Easter* Term.

They complain that there are several indiscreet Letters came from *St. Germans*, that turn to the prejudice of the Design. Those Letters are not enough disguis'd to deceive the People here, but speak too plainly what is to be expected from themselves, and from the *French*. You will take notice, that the Letters which you will hear, are all Bills with high Characters of the Bearer : for which reason they write in such general Terms, because the Bearer was intrusted with the whole. Some of the Letters say, no Particulars are or need be expressed, because he will inform them of every thing. Others, That they could not write so much as he could say ; and that nothing was wanting but to allow him a full and a fit Season to give an Account of all the Business ; and that they intirely depend upon his Account of them and their Condition.

And, Gentlemen, in one of the Letters the Bearer is styled a Lord ; and to whom can that be applied, unless to the Prisoner at the Bar.

In another Letter, when they speak of sending the Copper and the Linen (the Goods pretended for carrying on the Trade) it is added, And what the meaning of that is, they must refer to the Bearer, who was able to give them a particular Account.

I have mentioned so much of the Papers, only that you might have a general Notion of them ; that so when you hear them read, you may more readily make your Observations. I assure you I have been as careful as I could, not to exceed the Truth in opening any part of the Evidence. But it is your part to see whether what I have opened be made out in Proof.

There is another Paper that gives an Account of their Majesties Fleet to be sent out this Summer ; and there is an Observation at the end of it, that it was hoped it may be out in *March*. But you will find by other Papers (and particularly by one of my Lords own Hand-writing) that he was of another mind, that the Fleet will not be out before *June*.

Gentlemen, the last sort of Papers which I will mention to you, are some *Memorandums* and Notes, written by my Lord *Preston* ; wherein he gives an Account of several Things of great moment ; which as his memory served him, are put together without connexion or method, being only to remind him of them when he should have occasion to mention them.

He therein gives an Account of the Number and Strength of the *English* Fleet, how they are manned, and who are the Principal Officers and Commanders, and in what time they will be out.

He likewise gives an Account of the Number and State of the *Dutch* Fleet, and how that is to be divided and disposed of.

And with relation to the *French* Fleet, there is a particular *Memorandum*, That they must be out at farthest in *April* ; That they must be out so as to separate the *Dutch* Fleet and ours ; That they must be sure to look in at *Spit-head* as they come by, and secure what Ships should be in that Harbour from joining the rest.

There is also a hint given of those that were most likely to come in to them. And there is Advice in what place their Fleet should fight ours. They must not come so high as *Beachy*, where they fought the last year, but rather chuse to fight in the Chops of the Channel.

There is an Account of *Portsmouth*, how fortified and garrison'd, that it had but 500 men ; that *Gosport* had nothing but Pallisadoes about it ; and *Southsea Castle* very weak.

There are Memorandums of other Heads proper for a Declaration.

There are the Names of several Persons, some of them with particular Characters, and some without ; and amongst the rest, there is this Character given of the Clergy of the City of *London*, that they are the worst of all others.

Gentlemen, we shall proceed to the Evidence, and first call the Living Witnesses, and then read the Papers ; and when you have heard what the one can say, and what the other contain, we must leave it to your Consideration, and submit all to the Direction of the Court.

Mr. Serj. *Tremayn*. Pray swear Mrs. *Pratt*. *Jane Pratt*.

Who was sworn with Seven or Eight more.

Mr. Serj. *Tremayn*. Mrs. *Pratt*, Pray will you tell us what you know concerning the hiring of a Vessel, and whether it was to go ? and by whom it was hired, and for what ? Pray tell your whole knowledge in this Matter.

Mrs. *Pratt*. Mr. *Burdet*, may it please your Lordship, sent for me to his House, to hire a Vessel to go for *France*, and asked me if I could carry them secure ; I told them I could let them have a Smack that would carry them ; and if it please you my Lord, we met several times at his House ; and at last there was Mr. *Ashton* there, and Mr. *Ashton* appointed to meet at the *Dog Tavern* upon *Ludgate-hill* ; I think they call it the *Wonder Tavern*.

L. C. J. *Holt*. Mrs. Pray begin again, and speak out.

Mrs. *Pratt*, Mr. *Burdet* sent for me to hire my Smack to go for *France*, and they asked me if I thought it would carry them secure ; I told them yes, I thought it would. And I came several times about it to Mr. *Burdet's* House ; the Smack was not then come to the Tower, as it did afterwards ; and then after they sent for Mr. *Ashton*, and he met me at Mr. *Burdet's*, and meeting at Mr. *Burdet's*, he gave me a Note, to meet at the *Dog Tavern* upon *Ludgate-hill*, and there *Ashton* met, but Mr. *Burdet* did not come.

Mr. Serj. *Tremayn*. Who was with *Ashton* when you met at the *Dog Tavern* ?

Mrs. *Pratt*. None but a Man of his, as Mr. *Ashton* said ; there we sat about an hour and an half and did nothing : At length we went away, and appointed to meet at Mr. *Burdet's* House the next day at Seven or Eight a Clock, and there we met, and the Bargain was made.

Mr. Serj. *Tremayn*. What Bargain ?

Mrs. *Pratt*. I askt a 150 *l.* and they told me that was too much ; says *Ashton*, I will give you Fourscore : Says Mr. *Burdet*, pray encourage them, offer them a 100 *l.* thereupon he did offer a 100 *l.* and we agreed for a 100 *l.*

Mr. Serj. *Tremayn*. What day was that, can you remember ?

Mrs. *Pratt*. We met on the *Monday*, and the *Tuesday* we agreed.

Mr. Serj. *Thompson*. What Money was paid ?

Mrs. *Pratt*. Ninty three Guineas and Six pence.

Mr. Serj. *Tremayn*. Who was by when the Bargain was made ?

Mrs. *Pratt*. Mr. *Ellyot* was along with them ; Mrs. *Burdet* and the Master of the Vessel at the Agreement.

Mr. Serj. *Tremayn*. What is the Master's Name ?

Mrs. *Pratt*. His Name is *Pafely*, and there was Six-pence broken, and Mr. *Ashton* took one of the Six-pences, and Mr. *Burdet* ordered him to give his Wife the other, and so he did ; and when the money was paid, Mr. *Ashton* brought it in a Paper wrapt up, and said, we should see it told out, and he told it out there, and it was Ninty three Guineas and the Six-pence.

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Mr. Serj. *Thompson*. Who did they tell you they were to carry into *France*?

Mrs. *Pratt*. Truly my Lord they said Three, that was all.

Mr. Serj. *Tremayn*. What followed then? Did they give you any Note where you were to come for them?

Mrs. *Pratt*. Mr. *Ashton* bid Mr. *Ellyot* write a Note where they should come; it was at Mr. *Rigby's* in *Covent-Garden*, at the Seven Stars, and there we were to meet at a Eleven a Clock at night; and when we came there, Mr. *Ashton* was within, and went out and fetch'd in some Company, Mr. *Ellyot* came and two other Gentlemen that I never saw in my Life before.

Mr. Serj. *Thompson*. Mistris, you speak the breaking of a Six-pence, what was to be done with that?

Mrs. *Pratt*. My Master was to bring the half of the Six-pence that Mr. *Ashton* had, to Mrs. *Burdett*, and then we were to have the 100 l.

Mr. Serj. *Tremayn*. Had Mrs. *Burdett* the other Piece?

Mrs. *Pratt*. Yes, Mr. *Ashton* had one half, and she had t'other.

Mr. Serj. *Thompson*. Was there any Provision carried on Board this Smack? Yes, there was a Hamper and a Trunck, which were fetcht from Mr. *Burdett's* House; my man *John Fisher* carried the Trunk, and a Porter carried the Hamper, and I took care to see it put in the Vessel.

Mr. Serj. *Tremayn*. When you came to *Covent-Garden* that Night, what Discourse had you? and what inquiries were there made, and by whom?

Mrs. *Pratt*. Mrs. *Ashton* comes in, as she said, Mr. *Ashton* was her Husband, and said there was some News from Court, of having Papers in a Hatt, and that they had chosen some Lord or other: Something it was I remember, I can't tell what; but says one Gentleman that stood by, and said, I was chosen the last year, that signifies nothing; and another said, I missed it; It is only a Christmas Gambal, it signifies little.

Mr. Serj. *Tremayn*. What further discourse had they?

Mrs. *Pratt*. Mrs. *Ashton* said she was afraid they should have no very good luck, for the Cock crowed.

Mr. Serj. *Tremayn*. Was there any discourse what advantage they should get by going, or you by carrying of them?

Mrs. *Pratt*. They said they would help us to the earning of 1000 l. before *Lady-day*, if they went this time safe.

Mr. Serj. *Tremayn*. Pray Mistris recollect your self; were they to go to *Flanders*? or where?

Mrs. *Pratt*. They were to go for *France*: they were not to go for *Flanders*.

Mr. Serj. *Thompson*. What time of Night did you depart from Mr. *Rigby's*?

Mrs. *Pratt*. About Eleven a Clock.

Mr. Serj. *Thompson*. How did they go away from Mr. *Rigby's*?

Mrs. *Pratt*. I did not go with them: Mrs. *Ashton* kept me, and gave me the Leg of a Goose and some Drink.

Mr. Serj. *Tremayn*. Do you know any thing further?

Mrs. *Pratt*. No; I think I have told all.

Mr. Serj. *Tremayn*. Were you hired for *France*, or *Flanders*? I ask you once again.

Mrs. *Pratt*. We were hired for *France*; any place there where we could touch.

Mr. Serj. *Tremayn*. Was there any particular Port mentioned?

L. C. J. *Holt*. If you have done with her, will my Lord ask her any question?

L. *Preston*. My Lord, I desire she may be askt, whether she ever saw me before?

Mrs. *Pratt*.

Mrs. Pratt. No ; never, my Lord, but in the *Tower*.

L. C. J. Pollexfen. But, she says, when they were at *Rigby's* there came in two Gentlemen with Mr. *Ellyot* that Night.

L. Preston. I desire to know of her whether I was one of them two.

Mr. Serj. Thompson. My Lord, she does not say your Lordship was one of them.

Mrs. Pratt. No, my Lord, you were not one of them.

Mr. Serj. Thompson. Then set up Pafeley. Pafeley, what do you know about hiring of this Smack to go for *France*? I think you are Master of the Smack, called the *Thomas* and *Elizabeth*, are you not?

Mr. Pafeley. Yes.

Mr. Serj. Thompson. Then pray give an account of the whole matter.

Mr. Pafeley. The Smack was hired of the Woman, and not of me ; and when I came up to *London* she told me she had got a Voyage over to *France*, if I was minded to go ; I said, Yes : and she appointed me to go along with her to this Mistress what do ye call um's House, this Mrs. *Burdet*, and when we came to this House there was no body within but Mr. *Ashton* ; presently after came in Mr. *Ellyot* ; after they came in they told us the things were not ready yet, but they would be ready presently to carry on Board ; when these things were ready, *John Fisher* carried the Trunk down, and the Porter carried the Hamper, and I went with them along to *Billingsgate* and carried them on Board ; and when I carried them on Board I went to *Billingsgate* again, and so we went along to this Mr. *Burdet's* House ; and so when we came up to *Burdet's* House, *Ashton* and *Ellyot* were not there present, but we had been there but a little time e'er they came in, and then they came and said to my Owner and me, You shall see the Money told ; it was all in Gold but one Six-pence ; there was Ninety three Guinea's : And, after the Money was told, there was a Six pence that was broken in half, and the Guinea's he roulded up in a Paper, and gave them to Mrs. *Burdet*, and bid her lay them up ; and he gave her one half of the Six-pence, and kept the other half himself ; and when I brought that other half that he had, or my Owner, then she was to give the Money to her or me.

Mr. Ser. Tremayn. Pray what Room of the House was this in at Mr. *Burdet's*?

Pafeley. It was on the Left hand going in.

Mr. Ser. Tremayn. Was it a Bed-chamber?

Pafeley. Yes, 'twas.

Mr. Serj. Tremayn. What time of Night was't pray?

Pafeley. About Eight a Clock.

Mr. Serj. Tremayn. What discourse had you with them there pray?

Pafeley. They asked me if I thought they might get well over? I told them Yes, I believed they might.

Mr. Serj. Thompson. Did they tell you what part of *France* they were to go to?

Pafeley. No, they named no place, but any part in *France*.

Mr. Serj. Tremayn. Well, go on, tell us what they said further.

Pafeley. So, Sir, they gave us direction to meet them at the *Seven Stars* in the little *Piazza's* in *Covent Garden*: when we came there it was Eleven a Clock at Night, and they were not in the House when we came in, except twere Mr. *Ashton* ; but presently after *Ashton* and *Ellyot* came in, and they fate down ; and so in came two Gentlemen more, but what they were, or who they were, I don't know, and they discoursed about Papers shaking in a Hat, and said they should have no good Luck, for the Cock crowed : And after

after this *Ellyot* and *Ashton* came out of the House and called me to go with them, and after we were gone out Mr. *Ashton* leaves *Ellyot* and went away from him, and *Ellyot* bid me go along with him, says, come Master, come along with me; he did not name any place whether they were to go, but it happened to be *Surry-stairs*, and going down, he calls in at the corner House, which is an Ale-house, for the Water-man, and bid me go before to the Water-side; and when we came thither the Water-man steps into his Boat, and I after him; and when I was in the Boat I went into the Stern, and by that time I was seated in the Stern there came down four Men; but I never saw my Lord and his man before they came into the Wherry. *L. C. J. Holt.* Who came into the Wherry?

Paseley. There was all those four, Mr. *Ashton*, Mr. *Ellyot*, my Lord, and his man.

L. C. J. Holt. Where was this do you say?

Paseley. At *Surry-stairs*, there the Boat was.

Mr. Serj. *Tremayn.* Was the Prisoner at the Bar one of them?

Paseley. Yes, he was. *L. C. J. Holt.* Well, what did you do then?

Paseley. After we were seated in the Boat at *Surry-stairs* we put off, and went down through Bridge, and going through Bridge we came on Board the Vessel, riding just against the Tower almost, and we went all on Board; and when we came on Board, my men were all asleep, and being asleep, I called them out of the Cabin to hale up the Anchor; and there being very little Wind stirring, we could not go very far, but came just below the half-way Tree, and then we stopt, and I ordered to drop the Anchor for fear of the Vessels in the River: and the next morning about Eight a Clock we weighed our Anchor again, and went on till we came near to the *George* man of War, and there they all of them hid.

Mr. Serj. *Tremayn.* Who?

Paseley. All of them, my Lord. There was *Ashton*, and *Ellyot*, and my Lord *Preston*, and his man.

Mr. Serj. *Thompson.* In what place did they hide?

Paseley. In the Quarter-hatches, under the Hatches where we lie.

Mr. Serj. *Thompson.* Did they desire you to hide them?

Paseley. Yes, they did.

Mr. Serj. *Thompson.* What did they say?

Paseley. They said, that if there should come any Boat on board to press, I should shew them my Protection; and so there came no Boat then.

Mr. Ser. *Tremayn.* How big is that place that they hid in?

Paseley. 'Tis in the Quarter under, near the Cabin-hatches.

Mr. Serj. *Tremayn.* I ask you what kind of place it is?

Paseley. They cannot sit upright, nor stand upright, but they are fain to lie along, or lean upon their Elbows.

Mr. Serj. *Thompson.* Well, go on, what happened afterwards?

Paseley. After that we were past the man of War, they came up and sat in the Cabin where we used to eat our Victuals; and when we came to *Gravesend*, over against the Dock-house, they would go down again and hide, and did so till we passed the Block-house, and then they were for coming up again, and then I saw a Boat coming about *Tilbury* which made towards us, and thereupon they ducked down again, and the Hatches were laid down upon them, and there they remained till they were taken.

Mr. Serj. *Tremayn.* Where were they taken?

Paseley. They were taken between the North Block-house and the little

Mr. Serj. *Tremayn.* But I mean in what part of the Ship.

Paseley. They were taken in that little place where they were hid.

Mr. Serj. *Tremayn.* Were the Hatches shut down upon them?

Paseley. Yes, they were.

Mr. Ser. *Tremayn.* How long had they been hid before they were taken?

Paseley. A quarter of an Hour, or thereabouts.

Sir W. W. Did they desire to be hid there?

Paseley. Yes, they did, and they were hid there.

Mr. Serj. Thompson. Now tell us, after such time as they were taken, what they said, and what you observed.

Paseley. After they were taken they said nothing to me, my Lord, nor none of them did speak to me after the Boat had taken them.

Mr. Serj. Thompson. But what happened after they were taken?

Paseley. After they were taken, Captain *Billop* ordered them to go into the Boat, and us with them; and when we came to *White-hall stairs* one of them said to me, Master, when you come upon your Examination, say you were bound to *Flanders*, and not for *France*.

Mr. Serj. Thompson. Which was that that said so?

Paseley. 'Twas *Ellyot*, and he gave me half a Crown to bear my expences that Night, and said he would remember to take care of us afterwards.

Mr. Serj. Thompson. Did they give any money to the Sea-men?

Paseley. Yes, *Ashton* gave one of my men half a Crown, and bid him say he was bound for *Flanders*, and not for *France*; and my Lords man gave my other man half a Crown.

L. C. J. Holt. Was my Lord *Preston* by when that money was given?

Paseley. My Lord was upon the Bridge, but not near me.

Mr. Serj. Thompson. If my Lord have any Questions to ask him, we have done with him for the present.

L. Preston. No, my Lord, I have no Questions to ask him.

L. C. J. Pollexfen. Was my Lord *Preston* by when the direction was given you to say you were to go to *Flanders*, and not to *France*?

Paseley. I say he was upon the Bridge, but was nor near me.

Mr. Serj. Tremayn. What discourse had you on board with any of them?

Paseley. Very little. They askt me if I thought they should go clear? and I told them yes, I thought they might.

Mr. Serj. Tremayn. Clear of what?

Paseley. Clear of the Vessels searching: They examined me that Night I was at the Seven Stars, if I knew the way of the *Swing* on the back of the Channel, to go clear of the Town. I told them I did not know the way by the Back of the Sands by *Margaret's*, but the *Swing* would not keep them clear of the Town.

Mr. Serj. Tremayn. Was there a Note written whether you were to come?

Paseley. Yes, There was Note written to meet them at the Seven Stars in the little *Piazza's*

L. C. J. Pollexfen. Where about is *Burdet's House*?

Paseley. That is in *Queen-street* in the City.

Mr. Serj. Tremayn. You *Paseley*, Did the Waterman that brought them on Board, leave two Coats behind him?

Paseley. Yes, the Waterman did leave two Coats; and I put them into my Chest, and afterwards they broke open my Chest, and took them out, and brought them to my Lord Chief Justices.

Mr. Serj. Tremayn. Then we will next produce that Waterman. Set up *Charles Betsworth*.

Mr. Serj. Thompson. Come, will you give us an Account who you carried on Board a Smack, and what hapned.

Betsworth. I was going over the Water from *Surry Stairs* about Seven or Eight a Clock, and a Gentleman at the Stairs call'd *Sculler*, and ask'd me if I would carry him down the River; said I, how far, says he to the Tower; said I 'tis against Tide, and I can't carry you down so low; he said he would stay till the Tide turn'd; said I, if I be out of my Bed so long, I deserve to be well paid for it; If you will give me Half a Crown I'll carry you down; says he I'll give it you; so then I came a-Shore, and he ask'd me what my Name was, I told him *Charles Betsworth*; says he, will you be sure to stay for us; Yes, said I, if you will be sure to come: If I be not at the Stairs, I'll be at that Ale-house

house there in the Corner ; so I staid, and carried over a Fare or two over the Water ; and about a Eleven a Clock, as I was sitting in the House, a Gentleman comes, and calls *Charles*, and so out I went to my Boat, and took them in. There was one man, as I suppose, in the Stern ; and he that called me out followed me down, and by and by came three more into my Boat ; one of them had a whitish Cloak on, and the other a gray loose Coat, and a red Bag, of the quantity of a Peck ; and so we put off, and rowed away ; and just under the Temple Wall, which was all the Words I heard from them, that I can remember ; says one Gentleman, When do your hear the King goes away ? and another made answer and said, a *Tuesday* : So we rowed down through Bridge ; and when we were through Bridge, they asked where the Vessel lay ; and he that was in the Stern said, it was *Southwark* side, over against the Tower, and bid me row over thither. And when we came just below *Battle-Bridge*, that man said, that is she that rides a Head of us, and I look'd, and she had a Pennant up ; so they were put on Board ; and as soon as they were on Board, she went off, and I rowed up to the Bridge, and went through Bridge, and came up as far as *St. Dunstons* and there I staid and took my Scull and my Staff out of my Boat ; and when I took them out, I missed my Clothes ; says I, God bless me, I have lost my Clothes ; but then I thought it was but a still Tide, and therefore I would try if I could overtake them ; for I thought they could not be got far, there being little or no Wind ; so I went down to the Place where the Vessel lay, and she was gone ; and I enquired of several Smacks that lay there, but could hear nothing, and I rowed as low as *Limas Reach* ; and about *Black Wall* and *Limas Reach*, I came up to a Smack, that I supposed was she, and I cry'd out, Ho the Smack, and they answered me So ; I asked them if I did not bring a Fare a-board that Smack a while ago ; then they said no ; I told them I had brought a Fare on Board some Smack that lay about *Horsleydown* and *Pickle-herring Stairs*, and they had got two Coats of mine, which I had forgotten, and it had a Pennant up when they went on Board, but this had none ; so I rowed on further, till I came as far as *Berking Sberf* ; and I thought there being so little Wind that none could be gone beyond me ; and therefore waited to see a Smack with a Pennant coming down, but I could not meet with it, and there I lay all Night in my Waistcoat ; and the next day I came back to *Greenwich*, and as I came along, I went on Board several Vessels to enquire, because I took her for an Attendant upon a Man of War, but I could not hear of my Clothes, till last *Friday* was Seven night, two Watermen came, and brought me the Clothes I lost.

L. C. J. Then you have your Clothes again ?

Betsworth. Yes, I have.

Mr. Serj. Thompson. Pray look upon that Gentleman there, my Lord *Preston*, are you sure that he was one of them that was in your Boat ?

Betsworth. I can't tell that ever I saw him in my Life before.

Mr. Serj. Tremayn. You *Pasely*, I ask you, was my Lord *Preston* one of the Gentlemen the Waterman brought on Board your Smack ?

Pasely. Yes he was.

Mr. Serj. Tremayn. Is that the Waterman ?

Pasely. Truly my Lord I can't tell ; but the Waterman's Coat was left on Board.

Mr. Serj. Tremayn. Then let me ask you another Question, Had you a Pennant ?

Pasely. Yes I had when I came on Board.

Mr. Serj. Tremayn. Did you take in your Pennant ?

Pasely. Yes, I did afterwards.

Mr. Serj. Tremayn. Why did you take it in ?

Pasely. They asked me if there was a Pennant ; and I told them yes ; and they bid me take it in.

Mr. Serj. Tremayn. Who bid you take it in.

Pasely. *Ellyot* did ; so we took it down.

Mr. Serj. Thompson. Will my Lord ask *Betsworth* any Questions ?

L. Preston.

L. *Preston*. No, I have nothing to say to him.

Mr. *Serj. Tremayn*. What did they carry a-board with them, *Pasely*?

Pasely. They had nothing a-board but the Trunk and Hamper, that were brought down before from *Burdet's* House : and there was nothing brought in the Boat but only a Leather Bag.

Mr. *Serj. Tremayn*. Then set up *Fisher*, I think his Name is *John Fisher*. You were one of the Seamen that did belong to the Smack, I think.

Fisher. Yes, I was.

Mr. *Serj. Thompson*. Pray then tell us, who were brought thither ; and what happened upon it.

Fisher. About six Hours before they came on board us, our Master came himself on Board, and took me along with him ; but whither I was to go then I did not know. He carryed me to a House in the City, and there gave me a small Trunk to carry, and a Hamper to a Porter ; and we went away with them ; and he bid us, at *Billinggate*, carry them a-board, which we did.

L. C. J. *Holt*. When was the Trunk and Hamper brought on board?

Fisher. About six or seven a Clock at night, on *Wednesday*, I think.

L. C. J. *Holt*. Well, and what followed?

Fisher. My Lord, and Mr. *Ashton*, and Mr. *Elliot*, and my Lords man, and the Master came on Board between eleven and twelve : There were no more came on Board that I know of ; but we were asleep when they came on board ; and immediately our Master ordered us to hale up the Anchor. Now there was but little Wind stirring ; and by that time we were faln down as low as half-way Tree, it being still Flood, we could go no farther : so there we were ordered to stop, and we lay by till morning ; and about eight in the morning we weighed Anchor again, and about nine, when we came to the *George* Man of War they hid, they desired to go down into the Quarters, and we laid the Hatches upon them.

Mr. *Serj. Tremayn*. What kind of place is it that they hid in?

Fisher. They could not stand upright, nor sit upright, but they must lie along or lean upon their Elbows. So when when we were got below the Ship, they came up again into the Cabbin : And when we came at *Gravesend* near the Block House, then they hid again till we were below the Block-House ; and then we spied a Boat coming, which made them to keep below ; and there they continued till Captain *Billop* took them.

Mr. *Serj. Tremayn*. Were they all four there ? *Fisher*. Yes all four.

Mr. *Serj. Tremayn*. After they were taken, what said they?

Fisher. After such time as they were taken, and come up to *Whitehall Stairs*, Captain *Ashton* gave me a Half-Crown-piece, and bid me say they were going to *Flanders*, and not to *France*.

Mr. *Serj. Tremayn*. But whether were you going?

Fisher. Truly, I did not know where we were to go, till since we came on Shoar. I understood nothing till they hid ; and then indeed I thought we were going to *France*.

Mr. *Serj. Tremayn*. When did any Body tell you you were to go to *France*?

Fisher. Since we came on Shoar.

Mr. *Serj. Thompson*. Will my Lord ask him any Questions?

L. *Preston*. No.

Mr. *Serj. Tremayn*. Then the next Witness we call is one *Amonds*, Pray tell us what you know of this Matter.

Amonds. May it please you my Lord, I know nothing concerning my Masters Business, but all that I know of this Business is, That they came on Board about Twelve a Clock at Night, and I was then asleep in the Cabin, and hearing some come on Board, and my Master call, I looked out, and there were Three or four Gentlemen and my Master, and he ordered us to set sail immediately, and make our way down as fast as we could ; there was little or no Wind ; so that when we

we came down to the half way Tree, we were forced to come to an Anchor, and there we rid at Anchor till it was broad day, when there was a brave Gale to the Westward, and by that time we got down to *Long Reach*; about Nine a Clock we came to the *George Frigate*, a Man of War, and they understanding that, desired to hide these Gentlemen.

L. C. J. Holt. What Gentlemen?

Amonds. My Lord *Preston*, *Mr. Ashton*, and *Mr. Ellyot*, and the other Gentleman that was with them.

L. C. J. Pollexfen. Look upon my Lord there, was he one;

Amonds. Yes, that Gentleman was one.

L. C. J. Holt. Well, go on.

Amonds. And so Sir, after we were passed the *Frigate*, they came up again, and did not design to go down any more till they see some other danger. When we came almost to *Gravesend*, they went down again: When we were past the *Block-house* I was at the Helm, and they were resolving to go to Dinner, and bid that Man, my Fellow, to reach them some Victuals out of the Hamper: And while he was reaching them some Victuals, I see the Pinnace coming towards us; sayd I, here is a Pinnace coming a-board; says my Lord and they, we must go down again and hide, and so they did go down again; we apprehended that they were coming a-Board to press us, and they had no mind to be seen. When the Pinnace came near, they waved to us in this manner, as much as to bid us stay; so we laid the Sail by, and staid for them till they came up; and when the Captain came on Board, says he, this is worth our coming on Board, here are a couple of brisk Seamen will do the King Service; I must have them, I think; says he, I hope not so, Noble Captain; says he, have you any thing to keep your selves clear? Yes, says our Master? I am sorry for that says the Captain; what is it? says the Master, I have a Protection; says the Captain, let us see your Protection: so the Master pulls out his Protection, and shews it: Well, says the Captain, I must look a little further, and away he goes into the Cabin, and takes up the Hatches where these Gentlemen were; says the Captain; Hye, hye, who is here? Turn out, says he; but I suppose they did not make so much hast as the Captain expected; so he called some of his men on Board; and when they came on Board, my Lord came out, and the rest of the Gentlemen; and says my Lord to the Captain, I hope you will be so kind as not to take any thing from us: Says he, I'll meddle with nothing but Papers, 'tis Papers I look for, and put his Hands in both his Pockets, and pulled out Papers, and put them into his own Pocket, but whether they were new or old I can't tell; and there was a Watch likewise, but that he gave my Lord again, and said, I'll meddle with nothing but Papers: then he searcht *Mr. Ellyot*, and *Mr. Ashton* was the last that came out, and there was one of my Lords Watermen in the Cabin with him; and, says he, an please you Noble Captain, That Gentleman puts something in his Bosom: Says the Captain, What did you put in your Bosom, Sir; nothing, says he, but my Handkerchief.

L. C. J. Holt. Who said so?

Amonds. *Mr. Ashton*, and shews him his Handkerchief, and afterwards the Captain put his Hand in *Mr. Ashton's* Bosom, and pulled it out.

Mr. Serj. Thompson. What did he pull out?

Amonds. A Roul of Papers with a Piece of Lead to it.

Mr. Serj. Thompson. Did you see the Lead fix'd to the Papers.

Amonds. I did see it fix'd to the Packthred that tyed the Papers.

Mr. Serj. Tremayn. What sort of Place is it in which they were taken?

Amonds. They could not sit nor stand upright in it.

Mr. Serj. Tremayn. Had you any money given you?

Amonds. I had half a Crown given me by my Lord's man.

L. C. J. Holt. Who was it gave you the money?

Amonds. It was my Lord's man, he that was on Board the Ship; he gave me half a Crown in *Whitehall*, and said, I should say we were bound for *Flanders*,

and not for *France*; but who the half Crown came from I can't tell, my Lord said nothing to me at all.

Mr. Serj. Tremayn. Did you hear any Discourse as they came down?

Amond. No, I did not mind any thing of discourse, for I never came among them, unless it were at the Hour of Watching.

L. Preston. Pray did I say any thing to you at *Whitehall*?

L. C. J. Holt. My Lord, your way is to propose your Questions to the Court, and they will ask them for you.

L. Preston. My Lord I desire to ask him if I said any thing to him at *Whitehall*.

L. C. J. Holt. What say you? Did my Lord *Preston* say any thing to you at *Whitehall*?

Amond. No my Lord, he never said any thing to me at all; it was his man that gave me the half Crown, and spoke to me.

L. C. J. Holt. Will your Lordship ask him any other Questions?

L. Preston. No my Lord.

L. C. J. Holt. Then call your next Witness.

Mr. Serj. Tremayn. Swear Captain *Billop*.

Which was done.

Mr. Serj. Thompson. Come Captain *Billop*, Pray will you tell my Lord and Jury, where you did apprehend my Lord *Preston*, and the Circumstances of what happened at their taking.

Capt. Billop. Sir, I met with them at the upper end of the *Hope*.

Mr. Serj. Thompson. Pray give us an Account from the beginning to the end, what passed, how you came with the Boat, and all that hapned at that time.

Capt. Billop. About Two a Clock, or between One and Two, upon the last of *December*, my Lord *Danby* came to me at one of the Doors of the House of Lords, and told me his Father would speak with me; and he carried me to my Lord *Linsley's* Chamber, where immediately my Lord President came, and told me there were some Persons that were going for *France* about Business of dangerous Consequence, and he desired me to use some means to get them apprehended; I then proposed what I should have to enable me for the Undertaking. My Lord *Danby* said there was such a Boat, that he would procure for me, and my Lord President gave me a Letter to another Person, who was to instruct me further about this Matter: My Lord *Danby* got the Boat ready, and some Men and Arms in it; but I thought there was not Arms enough, so I borrow'd some Arms of my Lord *Lucas*, and about Eleven a Clock as near as I remember we put off from *Tower Wharf*, it being very calm; I thought we should be swifter than any Vessel, and should have the advantage of them all; and therefore run down as far as *Graves End*; and I brought several Vessels by the Lee, in which time I pressed some *Barkin* men, two or three of them; and amongst them, one that knew the Vessels that lay in the River, having been on Board several; and we did board divers, and took out some men, having a Press Warrant; and he that I had taken of the *Barkin* men, after we had passed by several Vessels, seeing this Vessel sailing, told me that was the *Thomas* and *Elizabeth*; whereupon we made up to them, and waving towards them, they staid for us: when we came up, there was standing by the Master two lusty Sailors, and I told him I would take but one of them; he said he had a Protection; I bid him shew it me; when I was come on Board, and had looked upon his Protection, I told him I must look a little further, and I went down into the Cabin, and took up the Hatches, and there I found them all four lying together.

Mr. Serj. Thompson. What four?

Capt. Billop. My Lord *Preston* I did not know him then, nor till afterwards.

Mr. Serj. Tremayn. Who else was there?

Capt. Billop. *Mr. Elyot* was there, and *Mr. Ashton*, who were both my former Acquaintance, but my Lord *Preston* I had forgotten, till one of them called him my Lord, and I asked them what Lord it was; and they said it was my Lord *Preston*; so then I saluted my Lord, so we rowed up.

Mr. Serj. Thompson. Pray Captain tell us what hapned in the Vessel before you went out of it, after you found them there?

Capt.

Capt. Billop. I handed my Lord *Preston* up first, and after he came out of that little place, which he was forced to creep out of on his Knees, I turned my Lord about, and told him I must search him; he said, he hoped I would not meddle with any thing; I told him I would meddle with nothing but Papers, so I put my Hand in his Pocket and took all the Papers I could find, and put them in my own Pocket, and taking out a Watch, I delivered it to my Lord again. The next was Mr. *Ellyot*, and I searcht him, and found nothing at all upon him. After that *Ashton* came up, and one of my men told me that Gentleman had put something in his Bosom; whereupon I gave him a sudden turn, his Back being towards me, and asked him what was that he put in his Bosom? he told me nothing but his Handkerchief, and pluckt his Handkerchief out; with that I clapt my Hand in and got the Packet, and took it out, with the Lead fixt to it; I have the Lead now in my Pocket. Mr. Serj. Tremayn. Pray will you produce it, Sir. Which he did.

Capt. Billop. This is the Lead, several of my men saw it when 'twas fixed to the Packet. Mr. Serj. Thompson. What did you do with the Packet?

Capt. Billop. I put it immediately into my Pocket, as soon as I had searcht Mr. *Ashton* further, and then commanded these Gentlemen all into my Boat, and took all the People that belonged to the Smack with me: after I had brought her to an Anchor, and left two of my men on board of her, and there she rid till next Day, when I sent two more of my men to bring her up and those two men I ordered to search all the parts of the Vessel, and take what they could find, and whatsoever they found they should carry it to the Tower to my Lord *Lucas*; which, I supposed, they did.

Mr. Serj. Tremayn. Well, Captain Billop, after such time as you had taken these Papers, and brought these Gentlemen into your Boat, pray what discourse had you with them? What said they to you concerning the Papers?

Capt. Billop. It was a pretty while before we talked of any thing; the beginning of our talk was, as I remember, they desired to go ashore at *Gravesend* to refresh themselves, for it was cold, and they had not eaten any thing: it was my Lord that desired it; but I begged his pardon for that, and told him there was a man of War that lay at *Long-reach*, whereas I believed his Lordship would be very well accommodated with any thing he wanted.

Mr. Serj. Thompson. Well, what said they afterwards?

Capt. Billop. My Lord *Preston*, after I had saluted him upon knowing who he was, and Mr. *Ashton* and Mr. *Ellyot* telling him I was of their acquaintance, he said he was glad he was fallen into a civil Gentleman, and they said they were glad they were fallen into the hands of an acquaintance. I told my Lord I hope he should never find any thing otherwise than Civil from me; my Lord was very civil to me in Complementing, and assuring me he would acknowledge my favour and kindness to him. Mr. Serj. Thompson. Ay, what did he say to you?

Capt. Billop. My Lord *Preston* told me, if ever it lay in his Power to do me service he would, and he did not doubt but he might, and he used a great many words and expressions of kindness, and his readiness to do me service; and amongst the rest, my Lord said once to me, If I would dispose of the Packet —

Mr. Serj. Thompson. Pray speak that again.

Capt. Billop. My Lord *Preston*, in one of his discourses of his kindness in doing me service, had this expression, as near as I can remember, If I would dispose of the Packet.

Mr. Serj. Tremayn. What he would do for you if you would dispose of the Packet?

Capt. Billop. He did not come to any particular instance of what he would do, but he said he would serve me in any thing that lay in his Powers; but Mr. *Elliot* and Mr. *Ashton* discoursed me several times about it; they courted me, and desired me to throw the Packet over-board; but I told them I would not do any thing of that kind; and Mr. *Elliot* said that I might take the Papers that I took out of my Lord *Preston*'s Pocket and tie the Lead to them, and say that was the Packet, and throw the tother over-board. I told him he took the King's Council

cil to be odd People, and very indiscreet, that could not find out such a thing as that : After this was over, we had a little interval, and there was a Hamper in the Boats Stern, and there was some Bottles of Wine taken out, and we drunk several times; and by and by we had some discourse a little further about the same thing, and they pressed me to throw the Packet away; and one time particularly *Mr. Ashton* I remember, said it would be a generous thing, *Billop*, if you would go along with us, I think you may do as well there as here.

Mr. Serj. Tremayn. Whether would he had you gone with them?

Capt. Billop. He did not name any place, as I remember.

Mr. Serj. Tremayn. What promises did they any of them make you?

Capt. Billop. *Mun Ellyot* whispered me several times, Dear *Billop* throw the Packet over-board, what good would it do you to injure so many honest Gentlemen? And *Mr. Ashton* and *Mr. Ellyot* said I had it now in my Power to make my self as great and as rich as I would be.

Mr. Serj. Tremayn. What did any of them say about the Tide turning?

Capt. Billop. *Mun Ellyot* also said, It was impossible the Current or the Tide could run long this way, or always this way.

Mr. Serj. Thompson. When you had refused this that they desired of you, notwithstanding their promises, pray tell us how they turned their discourse into threatnings.

Capt. Billop. *Ellyot* told me, when nothing would prevail, that every Dog had his day; but I answered, I hoped never to see it your day; but however, said I, pray desist from any such Language, for I can't bear it. After that they never askt me any thing about it.

Mr. Serj. Thompson. Now tell us what you did with these Gentlemen, and these Papers afterwards?

Capt. Billop. I brought these Gentlemen up to my Lord *Nottingham's* Office, and delivered the Packet with the Lead fixed to it, and stood by my Lord *Nottingham* in the Room till he had opened the Papers, except while my Lord *Preston* was examined, and when he opened the Papers I stood by, that I might see him make them up again; and, I think, I took some of them in my hand, and said I might read them, but I was uneasy, and not disposed at that time to read many of them, so I did not read them all.

Mr. Ser. Tremayn. They were all by when *Ashton* said you would do generously to go along with them, were they not?

Capt. Billop. Yes, they were all in the Boat.

Mr. Serj. Trem. Did not one of them say to you, I know if *Capt. Billop* do serve us he will do it generously.

Capt. Billop. Yes.

Mr. Serj. Trem. Who was it?

Capt. Billop. It was *Ashton*.

L. Preston. I desire I may ask *Captain Billop* a Question.

L.C. J. Holt. Pray, my Lord, put your Question to the Court and they will ask it him.

L. Preston. I desire to know, my Lord, where it was, I said this to *Capt. Billop*, that he would dispose of the Packet.

Capt. Billop. Just after I had first saluted your Lordship, you said, you were glad you were fallen into the Hands of a civil Gentlemen.

L. Preston. Was it a-board the Boat that I desired you to dispose of the Packet?

Capt. Billop. Yes, and before we came on board the *George* Frigate, when we drunk about, upon the opening of the Hamper, it was in the Boat I am very sure, and before we came on board the *George*.

L.C. J. Holt. My Lord *Preston* said to you, you say, he would do you all the kindness that lay in his Power if you would dispose of the Packet; how would he have you dispose of it? what did he mean by it?

Capt. Billop. I don't remember he used any other word, but that dispose of the Packet.

Mr. Ser. Thompson. But *Ashton* and *Ellyot* did desire of you a great many times to throw it over board?

L. Preston.

Ld Preston. I desire he may be ask'd this Question. You said you carried these to my Lord *Nottingham* : Did you see them opened ?

Capt. Billop. Yes, I did see them opened, and I saw my Lord as he opened, lay them one by one, and read them over, and put them up again. And I looked upon several of them, while my *Ld Nottingham* was reading others ; and I stood by the Fire, and I see my Lord make them up, and he tied them with a piece of Twine, and he clapt his Seal upon them, and delivered them to me ; and I went immediately and delivered them to my Lord President.

Ld Preston. Were you all the while by, while my Lord *Nottingham* was reading the Papers ?

C. Billop. Yes, I was by when he opened them, and read them, and staid till he put them up again ; and as they came from his hands, I presently carried them to my Lord President.

Ld Preston. Are you sure, or can you swear that these are the same Papers which were taken on board the Smack, that you carried from my Lord *Nottingham* to my Lord *Danby*.

Capt. Billop. So many of them as I looked into, I marked ; and all that I marked I can swear to, and more than them I cannot.

Mr. Serj. Thomson. I think you say all those Papers that you delivered to my *Ld Nottingham*, you saw my *Ld Nottingham* seal up, and all them you carried to my *Ld President*. Yes, I did so ; all that my Lord opened at that time, were put up together again, and his Seal put to them.

L.C.J. Holt. But my *Ld* asks you, Whether you can swear the particular Papers ?

Capt. Billop. What I read, I marked, and them I can swear to.

L. C. J. Holt. You say you carried all those Papers my *Ld Nottingham* sealed, after he had opened them, to my Lord President.

C. Billop. Yes, my Lord, I did see my *Ld Nottingham* open them, I see him make them up again ; and when they were made up, he put his Seal to them, and I carried them to my Lord President.

Jury-man. My Lord, I desire *Capt. Billop* may be asked one Question.

L.C.J. Holt. Ay ; What is it you would ask him ?

Jury-man. I desire to know whether the Papers were sealed when he took them and brought them to my Lord *Nottingham* ?

C. Billop. No ; they were all tied up together with a Tape, or a Twine, I think with both, very fast together.

Jury-man. There was no Seal on them when he took them.

C. Billop. No ; but there were several Letters within the Pacquet that were sealed.

L.C.J. Holt. Was not the out-side of the Pacquet sealed ?

C. Billop. I don't remember the out-side was sealed ; there was a Cover, but as near as I remember, they were folds of Paper fast tied together.

Mr. Serj. Tremain. You delivered them as you took them, to my *L. Nottingham* ?

C. Billop. Yes : I never took them out of my Pocket after I had taken them from *Mr. Ashton* till I came to my *L. Nottingham's* Office, where I deliver'd them to him.

Mr. S. Thompson. Had you ever opened them, or seen them opened, before they came to the Hands of my Lord *Nottingham* ?

C. Billop. No indeed.

Mr. Serj. Tremain. Then set up *Johnson*. (which was done.) Pray tell us what you know of this Matter ?

Johnson. I was in my *L. Dunblain's* Barge, and I went down with this *Capt. Billop*, and we were on board several Vessels ; and we light upon a Ketch, where we pressed some Men, we thought it had been only some Seamen that were to be pressed, we did not know of any thing else when we had

rowed down as far as you have heard. We rowed up again, and searched several little Vessels and Smacks that were in the River; when a Fisher-man that we had pressed, said, That that was the Vessel the Captain enquired after: And then the Captain bid us take some small Arms; and I took a Pistol, and I went aboard. The Captain read the Protection, and then said, he must look further: When the Captain look'd into one of the Cabins, and took up the Hatches, I saw a great piece of Roast-Beef, and my *L. Preston* by it, and a Mince-Pye, and a Fowl; and we took the Beef out, but my Lord's Man said, he missed his Knife, it lay upon the Bench: And then came my Lord up, and his Man, and Mr. *Ellyot*; and when Mr. *Ashton* (the Man with the Pock-holes) came up, he went down again and pretended to look for his Hat; but when he was down, I see him cram something into his Bosom, and I told the Captain, I had seen him put some-thing in his Bosom; and the Captain took him hold by the Buttons of his Coat and turned him about, and asked him, what he put into his Bosom? He said, nothing but his Handkerchief; and pulling it out of his Bosom, he shewed it the Captain: but the Captain put his Hand into Mr. *Ashton's* Bosom and pulled out the Pacquet.

Mr. Serj. *Thomson*, You say you see him put something in his Bosom when he went down. Did you observe whence he took it?

Johnson. It was upon the Gravel, and there were a couple of Seals which we afterwards took up lying by, and I believe he took up the Pacquet, and forgot the Seals.

Mr. Serj. *Tremain*. Pray let us see the Seals.

Mr. Soll. Gen. Your Lordship observes the Pacquet was not at first in Mr. *Ashton's* Bosom.

L. C. J. Holt. No, it was not.

Mr. Sol. Gen. But he took it up from the place where the Seals lay, and put it in his Bosom. Pray in what place did this Pacquet and these Seals lie?

Johnson. Upon the Ballast, for they had shoved away the Board.

Mr. Sol. Gen. Was my Lord *Preston* upon the Ballast?

Johnson. Yes, my Lord lay almost upon his Back, he was the first that we saw, and he came out first; they were all four lying together there.

Mr. Sol. Gen. Who lay next my *L. Preston*?

Johnson. My Lord's Footman, Mr. *Ashton* lay next, and Mr. *Ellyot* lay next.

Mr. Sol. Gen. Where were the Seals then?

Johnson. My Lord was the first that I see come up.

Mr. Sol. Gen. But I ask you where the Seals were?

Johnson. The Seals were down upon the Ballast; whether they were my Lord's or no, I cannot tell, or whose they were.

Mr. Serj. *Tremain*. Now that we will ask Capt. *Billop*: Are these the Seals?

C. Billop. Yes; these are the Seals this Man gave me.

Johnson. I took them from off the Ballast.

Mr. Serj. *Thompson*. Did my Lord own these to be his Seals?

C. Billop. I did not ask him that I know of.

Mr. Serj. *Thompson*. Well, *Johnson*, go on, tell what you know further.

Johnson. After we came to *Long-reach*, a Gentleman that had a long Perriwig, a black Gentleman, Mr. *Ellyot* I think they call him, had a pair of Whiskers on when he was taken; and he took a pair of Siscers and cut them both off; and he said, if ever he liv'd, he should remember me, having a Tooth out, because I was so sharp upon him to make him come out: And when we came on board the *George* Frigate in *Long-reach*, my Lord's Man came to me, and said, he would give me something to drink, if I would deliver him the Seals.

Ld C. J. Holt. Had you any Discourse with my *Ld Preston* himself about them?

Johnson.

Johnson. No, it was his Footman that came to me, and said there was no body there but my self and him; I had them, and he would give me something to drink if I would deliver them, but I delivered them to Capt. *Billop*.

Ld Preston. My Lord, may I ask a Question or two of this Witness?

Ld C. J. Holt. Yes, my Lord, if they have done with him. What say you, Brother *Thompson*?

Mr. S. Thompson. We shall have done with him presently, my Lord. Pray had you any Money given you?

Johnson. No, but my *Ld* gave the Ship's Company ten Shillings to drink, and one piece was a Brass Half-Crown.

Mr. S. Thompson. What did they say as they went along, as you remember?

Johnson. They had a great deal of Discourse while we rowed; I was at the next Oar to them, but I cannot tell what 'twas.

Mr. S. Thompson. Who did discourse?

Johnson. *Ashton*, *Elliot*, and the Captain.

Mr. S. Thompson. Cannot you remember what they said any of them?

Johnson. They did talk together several times, *Elliot* said he was a-cold, and came and rowed at the Oar awhile, and *Elliot* swore an Oath, says he, they row all as if they were rowing to Prison; but truly I did not much mind their Discourse, I minded my rowing. There were some Victuals handed to us which we did eat.

Mr. S. Tremain. Did *Elliot* seem to be angry? What did he say?

Johnson. *Elliot* wished that a Thunderbolt might drop into the Boat several times, and sink it; and when we went through Bridg, against Tide, he wished that *London-Bridg* might have fallen upon our Heads.

Ld Preston. Now I would ask him, if your Lordship please, Did you see *Ashton* take up the Pacquet?

Johnson. Yes, I did, as it lay by the Seals.

Ld Preston. I perceive there seems to be some stress laid upon my lying next to Mr. *Ashton*, and my Seals lying by the Pacquet.

Ld C. J. Holt. My Lord, here has been no Inference made from that yet by the King's Counsel.

Ld Preston. My Lord, it is in vain to deny we were all together there.

Johnson. You were the first that I see, my Lord.

Ld Preston. We were all together, but there is no such thing to be gathered from thence as they would insinuate; but I suppose 'twould be deduced from hence, as if this Pacquet, because it lay near these Seals, should be my Pacquet.

Ld C. J. Holt. We have not yet heard, my Lord, what use they will make of it.

Ld Preston. But I desire to take notice of it, my Lord, and I think it is a very hard Presumption because we were in one place and the Seals at a little distance from the Pacquet, therefore the Pacquet must be presumed to be mine, I hope it shall not be presumed against me.

Ld C. J. Holt. Since your Lordship mentions it, I will take notice a little of it too: It is only a Circumstantial Evidence that is made use of against you; how far it will weigh, is to be left to the Jury vvhhen all the Evidence is heard. The Pacquet is found in the place vvhhere your Lordship lay, and by it Seals that belong to you; one is the Seal of your Office, as Secretary of State, the other is your own proper Coat of Arms.

Jury-man. With submission, my Lord, I desire this Witness may be asked this Question, Whether he saw Capt. *Billop* take the Pacquet out of *Ashton's* Bosom?

Johnson. Yes, I did.

Jury-man. And, Whether he savv *Billop* deliver the same Pacquet to my Lord *Nottingham*?

Johnson. No, I did not.

Ld C. J. Holt. You Gentlemen of the Jury, consider this, he vvas not then by: *Capt. Billop* tells you, that very Pacquet which he took out of *Ashton's* Bosom he carried to my *Ld Nottingham*, and he tells you my Lord opened it in his presence, and he is sure he put all the Papers together again and set his own Seal upon them, and then he took them from my *Ld Nottingham* and carried them to my *Ld President*.

Johnson. As soon as I came to *White-hall*, I was set Sentinel over those three Men that came out of the Smack, and was not admitted into the Room.

Mr. Sol. Gen. Then we must desire my *Ld Nottingham* may be sworn.

The Earl of Nottingham sworn.

Mr. S. Tremain. Where are the Papers?

E. of Nottingham. *Mr. Bridgman*, I think you have the Papers.

Mr. Sol. Gen. Pray, my Lord, Does your Lordship remember *Capt. Billop* brought a Bundle of Papers to you, and what became of them? Will your Lordship be pleased to give the Court and the Jury an account of it?

E. of Nottingham. My Lord, all that I have to say in this matter is, *Capt. Billop* brought to me a Bundle of Papers tied about with a Packthread, to vvhich was fixed a piece of Lead, I believe the same piece that was now produced, at least it was one very like it, he brought also a Signet which I presume I can know again when I see it.

Mr. S. Thompson. Pray shew my Lord the Seals. [which was done.]

E. of Nottingham. This is the Signet I presume vvhich he brought to me, I am sure he brought just such a one, if not the same: those Papers vvhhen he delivered them to me, I opened in his presence, and vvhhen I had so done, I read them and put them up together again and sealed them with my own Seal, and delivered them to him back again. What the Papers are, and what he did with them, I suppose, he vwill give you an account.

Ld C. J. Holt. But your Lordship says the Bundle of Papers he delivered to you, you sealed up, and delivered to him again.

E. of Nottingham. All those Papers that he brought to me, I did seal up, and deliver back to him again.

Mr. S. Thompson. Pray, my Lord, were they ever out of *Capt. Billop's* sight vvhile your Lordship had them?

E. of Nottingham. Not after they were opened: there was a little Paper that was tied to the Bundle which fell loose upon the taking away the Lead, and I opened that while he vvas by, and the Bundle lay upon the Table while I examined my *Ld Preston*, and after my *Ld Preston* vvas gone out, I called in *Capt. Billop* (who vvent out while I examined my Lord) and I opened that great Pacquet in his sight and read the Papers, and he read some of them, and all the Papers in the great Pacquet, and the little Paper that was stuck in, I delivered sealed up to *Capt. Billop*.

Mr. S. Thompson. Pray, my Lord, Were the Letters in the Pacquet sealed?

E. of Nottingham. Yes, there were some of them sealed, and all that I received from him I delivered to him, and no more.

Ld C. J. Holt. The Gentlemen of the Jury hear vvhhat my Lord says.

E. of Nottingham. The very same, all, and no more, I say.

M. S. Thompson. *Capt. Billop*, when you had them back from my Lord of *Nottingham*, pray to whom did you deliver them?

Capt. Billop. To my *Ld President*.

Mr. S. Tremain. Then vve must desire my *Ld President* would be pleased to be sworn.

The Marquess of Carmarthen, Lord President of the Council, was Sworn.

Mr. Sol. Gen. We must desire the favour of your Lordship, to acquaint the Court when Capt. *Billop* came to your Lordship, what he said, and what he brought with him.

L. President. Capt. *Billop* did bring me a bundle of Papers, and he told me he brought them from my Ld of *Nottingham*, and they were sealed, wrap'd up with a Packthread, and sealed with a Seal, which I knew to be my Lord's Seal; he delivered them to me my self; and these Papers I kept till I shew'd them the King the next morning. And after I had shewed them the King, the King delivered them up back to me, having read some of them, and commanded they should be delivered to the Cabinet Council. A Cabinet Council was called, and accordingly there I did deliver them Paper by Paper, and they were all marked by my Ld *Sidney*, and some I think by my Ld *Marlborough*; and so I delivered them all together to my Ld *Sidney*.

Mr. Sol. Gen. Then we desire my Ld *Sidney* would please to be sworn.

The Lord Sidney Sworn.

Mr. Serj. *Thompson*. Will your Lordship please to acquaint the Court and the Jury what Papers were delivered to you, and by whom, and where those Papers are?

Ld *Sidney*. The Papers that were delivered by my Lord President, I have kept them, my Lord, ever since: As soon as I had them, I read them, and marked them with a Letter of my own Name, the Letter *H*. I have kept them ever since, only one morning I gave them to Mr. *Bridgman* to be copied out as soon as he could; and he delivered them me back again, and they have not been out of my Custody since, only the Night before last Night they were sent to Mr. Solicitor to read, and brought immediately to me again.

Mr. Sol. Gen. To whom did your Lordship deliver them to be copied?

Ld *Sidney*. To Mr. *Bridgman*, I tell you.

Mr. Sol. Gen. So that they were never out of your Lordship's Hands till now, but only in Mr. *Bridgman*'s Hands?

Ld *Sidney*. No, I kept them in my Pocket ever since, only the Night before last Night when they were sent to you.

Mr. Sol. Gen. Did your Lordship mark them before they were delivered to Mr. *Bridgman* to copy?

Ld *Sidney*. Yes, I marked them when I received them.

Ld *Preston*. My Lord Chief Justice, your Lordship does observe that Capt. *Billop* swears that they were never out of his possession till he delivered them to my Ld *Nottingham*; my Ld *Nottingham* says he never opened them, but left the Pacquet upon the Table while I was examining.

L. C. J. *Holt*. Pray, my Lord, will you speak a little louder that I may hear you?

Ld *Preston*. My Lord, I am saying, my Ld. *Nottingham* says, That while he was examining me, the Pacquet lay upon the Table unopened, and were never out of his Eye till he sent them sealed by G. *Billop*, and so they come to my Ld President, and they were kept by my Ld President; my Ld President says, my Ld *Churchill* saw the Papers, and they were in his possession.

L. C. J. *Holt*. My Ld *Preston*, your Lordship does mistake my Ld President, he does not say that they were in my Lord *Marlborough*'s Hands; but he did communicate them at the Cabinet-Council where my Ld. *Marlborough* was; he said indeed, they were in the King's Hands, but he was by all the while.

Ld *Preston*. From that time they came out of my Ld President's Hands, I know not what may be put in, nor what taken out, these Papers are not sealed, as I hear of, afterwards; and passing through so many Hands, no body knows what may be done to them: Truly, I think it very hard to swear, after

all this, that these are the Papers that were taken aboard the Smack.

L. C. J. *Pollexfen*. Will you please to ask any Questions to satisfy your self of any of these Noble Lords?

L. C. J. *Holt*. My Lord, I'll put your Lordship right.

Ld *Preston*. With all my Heart, my Lord.

L. C. J. *Holt*. Your Lordship hears what Capt. *Billop* says; he says, he brought them, as he took them out of *Ashton's* Bosom, to my Ld *Nottingham*: My Ld *Nottingham* opened them before him, and did deliver them to him again, having made them up. My Ld *Nottingham* says, the same Papers Capt. *Billop* delivered him, he delivered back again, all, and no more; and *Billop* says, he carried them to my Ld President; my Ld President shewed them to the King, and afterwards carried them to the Cabinet Council; there the same Papers were opened, and there they were marked, some by my Lord *Marlborough*, and all by my Ld *Sidney*.

Ld *Preston*. Your Lordship will please to observe this; my Ld *Nottingham* was pleased to say, he opened no Papers till I was called in and examined, and then Capt. *Billop* withdrew. Now, my Lord, I don't know whether the Captain can say that these were the very same Papers that he took in the Smack?

L. C. J. *Holt*. Capt. *Billop* says, that he saw the Papers opened by my Lord *Nottingham*.

Capt. *Billop*. My Ld *Preston* observes a thing that is very right, my Lord, that after I had delivered the Pacquet to my Ld *Nottingham*, while my Lord was examined, I withdrew; but my Ld *Nottingham* has given your Lordship an Account, that he had not opened the Pacquet then, but only the small Letter or Note that lay apart from the rest: But, my Lord, the Pacquet was in the same condition when I came in again, upon the Table, as when I left it; my Ld *Nottingham*, as I believe, had not opened that Pacquet, for I found it just as I left it, upon the Table.

L. C. J. *Pollexfen*. My Ld *Nottingham* says, he delivered back to Capt. *Billop* all the Papers that he received from him; they were never out of my Lord *Nottingham's* presence; nor were they opened, as my Lord says, but in *Billop's* presence, nor opened till after my Lord's Examination, except the little Paper that was stuck in, and was loose upon taking away the Lead.

Mr. Sol. Gen. Pray swear Mr. *Bridgeman*. *(which was done.)*

Mr. Serj. *Tremain*. Pray, when you received the Bundle of Papers from my Ld *Sidney*, to whom were they carried, and to whom were they delivered?

Mr. *Bridgeman*. My Ld *Sidney* gave me these Papers to have them copied; and I copied some of them with my own Hand, the others I delivered to Mr. *Poultney*, and were copied in my presence in the Office: They were never out of my sight, and as soon as ever they were copied, I carried them back to my Ld *Sidney*, and delivered them to him my self.

Ld *Preston*. Were any of them taken from you, Sir?

Mr. *Bridgeman*. My Lord, I say I copied some of them my self, the others were copied in my sight and presence, in the Office.

Mr. Serj. *Thompson*. Pray, Sir, let me ask you one Question; Were the same Papers that were delivered to you by my Ld *Sidney*, redelivered back again and altered?

Mr. *Bridgeman*. I am very sure I gave them all the same back again, because I read them every one before they were copied.

Mr. Serj. *Thompson*. Did you observe my Ld *Sidney* had marked them before you had them?

Mr. *Bridgeman*. Yes, they were all marked before I had them.

Ld *Preston*. My Lord, I desire to ask Mr. *Bridgeman* this Question, Pray Sir, Were they sealed up when you sent them to my Ld *Sidney*? Mr.

Mr. Bridgeman. No, they were not sealed, they were tied up, but about the Seals I remember when I was in my Ld Sidney's Office——

Ld C. J. Holt. The Question is ask'd you, Whether you carried them back sealed or no ?

Mr. Bridgeman. No. They were not sealed when they were delivered to me, but I can safely swear they were never out of my Custody till I delivered them back again ; for vvhhat I did not copy my self, were copied in my sight.

Mr. S. Thompson. But your Lordship is pleased to observe they were all mark'd by my Ld Sidney before they were delivered unto him.

Mr. Sol. Gen. Then, my Lord, we have done with our living Witnesses for the present, and will read the Papers.

Mr. Bridgeman. One thing, my Lord, I do remember, as soon as my Lord Sidney received the Papers back again, he looked over every one of them and read them, and looked upon the Marks.

Ld Preston. If your Lordship please, I would beg the favour to ask one Question of my Ld Sidney ; Pray, my Lord, did your Lordship number the Papers ?

Ld Sidney. No, my Lord, I did not number them.

Ld Preston. But your Lordship says upon your Oath and Honour, that those are the very Marks upon them that your Lordship set there.

Mr. Sol. Gen. We are indeed to produce them, and then we shall ask that particular Question.

Ld C. J. Holt. My Ld Sidney will see them, and then he will answer your Lordship's Question.

Ld C. J. Pollexfen. My Ld Preston, my Ld Nottingham is here a Witness, and his Occasions call him away, have you a mind to ask him any more Questions ?

Ld Preston. No, my Lord.

Ld C. J. Pollexfen. What say you, Gentlemen, have you any further occasion for my Lord Nottingham ?

Mr. Sol. Gen. My Lord, we must beg his Lordship's Patience, we do not know what occasion there may be ; I desire this Paper may be shewn to my Ld Sidney. *(which was done)*

Ld Sidney. That is my mark, that Paper I know is one of the Papers.

Mr. S. Tremain. Here are two of them, one of these is the Copy of the other, both were taken in the same Packet, the one is fairer written than the other.

Mr. Sol. Gen. Gentlemen, the Paper we are now offering to you is that which I mentioned before, it is the Result of a Conference ; there were two of them taken in this Bundle, the one of them seems to be the first Draught, the other is a Copy more fairly written ; but I think they are both in effect the same ; however they were both taken in the same Pacquet, and you shall hear them read.

Ld Preston. My Lord, I desire that before it be read, it may be shewn to Capt. Billop, to know whether it be the very Paper that he took.

Ld C. J. Holt. Ay, let Capt. Billop look upon it.

Capt. Billop. My Lord, I do not remember that Paper.

Ld Preston. Your Lordship observes that Capt. Billop cannot swear that this was one of the Papers that he took.

Capt. Billop. All the Papers that I looked into I marked, and all the Papers that I mark'd I can swear to, and no others.

Ld C. J. Pollexfen. Did you look into all the Papers ?

Capt. Billop. No, I did not.

Ld C. J. Holt. But he swears all that he brought to my Ld Nottingham were sealed up by my Ld Nottingham, and carried by him from my Ld Nottingham

tingham to my Ld President, and my Ld President swears he delivered them all to my Ld *Sidney*, and my Ld *Sidney* swears this is one of those Papers.

Ld Preston. Certainly, my Lord's swearing to a Paper in this manner cannot be a good Proof: my Circumstances, my Lord, are very hard, and your Lordship, I have heard, ought to be of Counsel for me in any Point of Law; and, my Lord, I humbly desire to know, whether this can be a Proof of a Paper, that he says was taken in a Pacquet, and yet he can't swear it?

Ld C. J. Holt. My Lord, he does not swear that this was one of the Papers; but the Question is, Whether all these Witnesses together do not prove it? You see how the Evidence runs; All the Papers taken were delivered to my Ld *Nottingham*: All that were delivered to him were sent back by him sealed, and delivered to my Ld President; my Ld President brought them all to the Cabinet-Council, and delivered them to my Ld *Sidney*, and this my Ld *Sidney* says is one of those Papers.

Ld Preston. My Lord, I have a very great Honour for that Noble Lord, and I am sure, if he had not been upon his Oath, he would have said that which was truth; but in this condition that I am in, I must crave leave to observe every thing I can for my self, and I cannot but say these Papers are very oddly managed, and delivered up and down from one hand to another; I desire your Lordship would please to observe that these Papers are here brought after a very odd manner.

Mr. S. Thompson. My Ld *Preston*, you are not to sum up the Evidence to the Jury till we have done, nor to make your Observations.

Ld C. J. Holt. Brother, my Lord opposes the reading of the Paper, as not well proved.

Ld Preston. I do so, my Lord, and I hope your Lordship will advise me whether you do think it a sufficient Evidence and Proof of these Papers; they are Papers that have been copied out, and sent unsealed from hand to hand by some Messengers from one to another, and which now appear to be unsealed, and some of which he that took them cannot swear to.

Jury-man. My Lord, we cannot hear one word that is said.

Ld Preston. That is my misfortune: but I am urging to my Lords the Judges, whether this Paper ought to be read, and I desire your Lordship to advise me, whether it can be admitted as Evidence, being thus oddly proved?

Ld C. J. Holt. It is Evidence surely, my Lord: but the Question is, What Credit the Jury will give to this Evidence, the Jury are Judges of that; but certainly it is Evidence to have the Paper read.

Ld Preston. I doubt not but your Lordship will do me Justice, and I readily acquiesce in what your Lordships do appoint.

Ld C. J. Pollexfen. Pray, my Lord, see how the Evidence stands about this matter; first it is sworn by *Billop*, that he took a Bundle of Papers, tho' 'tis true, the Particulars he does not undertake to swear to; Well, what is next? why, says he, all that was in that Bundle I carried to my Ld *Nottingham*, and I received from my Ld *Nottingham* all that I carried to him. What says my my Ld *Nottingham*? he swears I delivered back again to Capt. *Billop* the same Papers he delivered to me, and all and no more, sealed up with my Seal. When he has it sealed up, what does he do with it? why he carries it to my Ld President. Is there any possibility of creeping out of this Evidence? Well, he delivers them to my Ld *Sidney*, and my Ld *Sidney* says this is one of those Papers: Can there be a plainer Evidence than this? when he says, all he had he carried to my Ld *Nottingham*, and my Ld *Nottingham* swears all he did receive he sent back sealed by him to my Ld President, and my Ld President swears all he received so sealed he gave to my Ld *Sidney*, and my Ld *Sidney* swears this is one of those Papers.

Ld Preston. But your Lordship will please to observe they were carried to the King, and they were in the hands of my Ld *Marlborough*. Ld

L. C. J. *Holt*. No, my Lord, not out of the sight of my Lord *President*. My Lord *President* says my Lord *Marlborough* marked some of them, but they were delivered to my Lord *Sydney*, and my Lord *Sydney* does say they are the same Papers that he had from my Lord *President*, and my Lord *President* says, they are the same that were brought him by Captain *Billop* from my Lord *Nottingham*, and my Lord *Nottingham* swears he sealed them, the same Papers, all and no more than he received from Captain *Billop*.

L. C. *Baron*. Your Lordship should observe where the defect of the Proof is, and then it may be supplied; for truly, put it altogether, I cannot see how there could be a plainer Proof given.

Lord *Preston*. My Lord, I desire to be heard as to this my Lord *President* was pleased to say, that some of them were delivered to the King.

L. C. J. *Holt*. No, they were shewn to the King, but my Lord *President* was by all the while the King did read them.

Lord *Preston*. My Lord, where a Mans Life lyes at stake, and all that is dear to him, your Lordship will certainly allow him to make what observations he can for himself.

L. C. J. *Holt*. Ay, in Gods Name, by all means: You shall have all the Liberty you can desire.

Mr. *Soll. Gen*. My Lord, we desire my Lord *President* will be pleased to look upon those Papers. Which was done.

Lord *President*. This is one of the Papers that I received from Captain *Billop*, and which I shewed to the King, and which I brought to the Cabinet Council; and this is another of the Papers.

Lord *Preston*. Pray my Lord, was your Lordship by when His Majesty read those Letters.

Lord *President*. Yes, my Lord, I was.

Lord *Preston*. My Lord, I ask it for this end, to know whether they were out of your Lordships sight.

Lord *President*. No never; I was in the Kings Cabinet, His Majesty read some of them, and then put them up again, and gave them me, and I delivered them at the Cabinet Council to my Lord *Sydney*.

Mr. *Soll. Gen*. My Lord, we desire this Paper may be read.

L. C. J. *Holt*. Read it.

Clerk of the Peace, Reads.

The result of a Conference between some Lords and Gentlemen, both *Tories* and *Whigs*, in which it was undertaken to prove the possibility and method of restoring by a *Fr. Power*, without endangering the Protestant Religion and Civil Administration, according to the Laws of this Kingdom.

1. **F**. Must either Oblige or Conquer us: If the last, he will find few helps here, but a bloodier resistance than ever the Romans, Saxons, or Normans found: It being incredible, how unanimous and obstinate that very thought renders the People, so that it may make us a heap of ruin, but no Nation that can ever help or import any thing to F.

2. If K. L. desires to oblige Us, and make the Work easie, that he may be at leisure to ply the Empire or Italy, or to have an advantageous Peace, he must take off the frightful Character we have of him, and shew us he has no such design, as returning our Offended K. a Conqueror upon us, but that he can and will be our Friend and Mediator; upon which terms he will find that many Lords and Gentlemen will speedily shew themselves to his Satisfaction; especially, if he makes haste, and looses no approaching Opportunity.

3. If he incline to this sort of Sense, he must over-rule the Bigotry of St. G. and dispose their Minds to think of those Methods that are more likely to gain the Nation; for there is one silly thing or other daily done there, that comes to our notice here, which prolongs what they so passionately desire. The Methods thought upon are these.

First, To prevent dangerous and foolish Intelligence by forbidding all in that Court to write any News hither, and that K. J. only have his Correspondence by whom to hear from, and speak to People here; since Letters so often miscarry, and are filled with nothing but what we should not hear; and what we have are Arguments for the most part against the K's Restoration.

Secondly, Since there is a great Body of Protestants that never defected, and that many Thousands are returning, and that they are the Natural Weight and Power of these Kingdoms, by having the Heads, Hands and Wealth of their side, to the odds and advantage of at least Two Hundred Protestants to one Catholick; the K. may think of nothing short of a Protestant Administration, nor of nothing more for the Catholicks then a Legal Liberty of Conscience; for much e mutt is against all other Notions, to which all private Passions, and artificial Frames in Government must yield or break. He may Reign a Catholick in Devotion, but he must Reign a Protestant in Government. Cromwel could not, yet on a broader bottom, with a Victorious Army, subsist or keep what he had got.

Thirdly, He must give us a Model of this at St. G. by preferring the Protestants that are with him above the Catholicks; one being Loyal upon less ties of Interest, and to tell the Nation here what they are to hope for when he comes.

Fourthly, He must give Incouragement to Lords and Gentlemen here to come to him, at least Seven or Nine for a standing Council; which will make us here think he is in some degree ours again, and that we have a relation to him, and some interest and share in him, by the Men of Quality of our own Religion that are with him. This will incomparably facilitate the matter here, nor will they, when they come, come empty, and in their own Names, which is still better, and will be more satisfactory there.

Fifthly, To induce this, English Protestants should be encouraged by an Edict of Liberty from the K. of F. to have Chappels at their own Costs, in which to Worship God after their respective ways, by which that K. will make us reflect upon his Conduct towards his Hugonots, rather to flow from the hazard he thought himself in by their Antimon. and resisting Principles, then a desire of Persecution.

Lastly, All other requisite Measures depending upon the acceptance this finds, an Answer hereunto is impatiently desired by those that have Discoursed the K's Business to this Maturity. So ended with an Unanimous Consent, both Tories and Whiggs upon this Occasion, that are in a way of closing in his Interest.

Lord Preston. I can very safely swear, my Lord, that I never saw that Paper in my Life.

L. C. J. Holt. Come go on with your Evidence.

Mr. Sol. Gen. This is another Paper of the same, but the Words that are written short in that are written at length in this.

The Paper was read accordingly, and in the first blank there was written K. J. in the first Paragraph (*France*) twice, in the third Paragraph (*St. Germain's*) in the Fifth, (*Mathemat. for Much e mutt*) the rest are obvious, and need not be supplied.

Mr. Sol. Gen.

Mr. Sol. Gen. Pray shew my Lord Sidney that Paper, what says your Lordship to it.

Lord Sidney, This is one of the Papers that I marked, and that I received from my Lord President.

Mr. Sol. Gen. Pray will my Lord President be pleased to give himself the trouble to cast his Eye upon that, and see if that be one of the Papers.

Lord President, My Lord, I remember it well, it is one of the Papers I received from Capt. Billop.

Mr. Serj. Tremain, This Paper is what Mr. Solicitor mentioned as heads of a Declaration.

Lord Preston, My Lord, I think it necessary to offer one thing to your Lordships before it be read, I desire Capt. Billop should swear it to be one of his Papers.

Mr. Sol. Gen. If your Lordship pleases, you observe what has been done already. My Lord President says 'tis one of those Papers that was sent him by my Lord Nottingham; and my Lord Sidney, has sworn it is one of the Papers he had from my Lord President.

Lord Preston, I shall not give your Lordship any more trouble than needs; I only offer it your Lordship: I wave it.

L. C. J. Holt. There is Evidence enough to have the Paper read.

Clerk of the Peace, Reads.

That the King will return with a design of making an Entire Conquest of his People, is so ridiculous as well as difficult, that it needs not be spoken to.

That the Kings Declaration be worded in General Terms, That he will Govern by the Laws, that they shall be the Rule of his Actions, that he will Endeavour to settle Liberty of Conscience by Law, that whatsoever things were formerly done by him, which occasioned Jealousies in the minds of his People, shall be left to the determination of a Parliament, to be formerly and regularly called as soon as is possible.

That he has given sufficient Evidence of his unwillingness to bring an Army of Strangers into his Kingdom, by refusing the Succors of the King of France offered him, and which were even ready to be Embarked upon the first Notice of the P. of Oranges intended Invasion.

That he brings with him such an Army only as is necessary for his own defence, and for the security of such of his Loyal Subjects as shall resort to him, that he will dismiss them as soon as he shall have rid the Nation of those Foreigners who have Invaded it, and trampled upon the Laws and Liberties of his People.

The Kings large exercising his Dispensing Power gave the great alarm to the People, and contributed most of all toward General Defection. Yet when that Power came to be debated in the last Convention, there appeared so many difficulties in the limiting of it, every Body (even the present Judges believing it necessary, That a dispensing Power should be in the K.) That it was let fall, and that point remains as it was. And without mentioning that, or any other particular, the K. can be in no danger by leaving all things which have been the occasions of Jealousies to the determination of Parliament, where besides the Kings professed Friends and Servants, there will not want others who will be glad of opportunity to ingratiate themselves.

L. C. J. Pollexfen. Gent. of the Jury, If you desire any thing to be read again, or any thing doubtful in it, should be Explained, tell us, and it shall be done.

Juryman,

Juryman, No my Lord, There is no occasion for that. I believe we apprehend these three Papers that have been read.

Lord Preston, My Lord, It is necessary the Gentlemen of the Jury should be satisfied in this point.

L. C. J. Pollexfen, Ay in any point, and if they desire any scruple should be cleared, the Court will do it for them.

Juryman, My Lord, I desire to know whether Captain *Billop* Signed that Paper or no.

L. C. J. Holt, No, he did not sign half of them, but unless it be proved, you ought to take it for granted, that it is not Signed by him.

Lord Preston, My Lord, I think it fit the Jury should be satisfied in any scruple they raise.

L. C. J. Holt, They asked this Question, Whether Captain *Billop* did sign the Paper, and I told them Capt. *Billop* did not say so, and therefore they are to take it for granted, that he did not.

Juryman, My Lord, We take this last Paper that was read to be a Paper that was delivered in the Bundle taken from Mr. *Ashton* to my Lord *Nottingham*, but not Signed by Capt. *Billop*.

L. C. J. Pollexfen, Then you take it right.

Mr. Sol. Gen. Then the next Paper that we produce is a List of the *English Fleet* that these Gentlemen were carrying over into *France*.

Lord Preston, That is printed, and to be found in every Coffee-House.

Mr. Serj. Tremain, Shew that Paper to Capt. *Billop*. *Which was done.*

Can you take it upon your Oath, Captain, That that Paper was in the *Pacquet* that was taken in Mr. *Ashtons* Bosom.

C. Billop, That Paper I have marked, and that Paper I swear was in the *Pacquet* I took away from Mr. *Ashton* aboard the *Smack*.

L. C. J. Holt, You are sure of it.

C. Billop, Yes my Lord.

L. C. J. Holt, Then read it.

Clerk of the Peace, Reads.

S H I P S.

Rates	Ships	In Repair.	Not	Building.
1	8	5	3	
2	12	11	1	
3	33	34	1	
4	38	34	4	4
5	14	14		1
6	9	9		
Fireships	25	25		8
Bomb. Vessels	1	1		
Ketches	1	1		8
	<hr/>	<hr/>	<hr/>	<hr/>
	143	134	9	21

Brought in by *Admiral Ruffel*
to the House of Commons,
Decemb. 24th. 90. the Fleet,
whereof 60 Dutch.

Memorandum, The new Ships Building
are Expected, will be ready to be lan-
ched by the end of March.

Mr.

Mr. Serj. Tremani, Pray shew this Paper to Capt. Billop. *Which was done.*

Pray was that Paper there among the others that were taken with these Gent.

Capt. Billop. Yes it was.

Mr. Sol. Gen. Can you take it upon your Oath, that that Paper was in the Pacquet that was in Mr. Ashton's Bosom.

Capt. Billop, Yes my Lord, I can.

Mr. Serj. Tremani. Pray shew him that Paper too.

Which was done.

Mr. Sol. Gen. And can you take upon you to say, That that was one of the Papers in the Pacquet.

C. Billop, Yes it was.

Mr. Sol. Gen. My Lord, We desire these may be read.

Clerk of the Peace, Reads, New-Years Eve, And it is directed for Mr. Redding.

Sir, Though the Bearer of this will do us the Justice, to assure you, we are as full of Duty, as unfeignedly, and unconcernedly yours, as your self could wish; yet this Gentleman has undertaken. You will forgive the Presumption, if I do my self the Honour to give you this fresh assurance in a few words, which I hope we do by our Accounts; I shall omit no Occasions, not neglecting the least, and making Zealous Wishes for the greatest, to shew our selves such as we ought to be.

Sir, I speak in the Plural, because I write my Elder Brothers Sentiments as well as my Own, and the rest of the Family, though lessened in Number; yet if we are not mightily out in our Accounts, we are growing in Our Interest, that is in yours: He that delivers this, will I hope, intirely to your satisfaction, represent us and me in particular, as with all the Devotion imaginable, and unchangeable Affection. Yours, God grant the happiest New Year.

Mr. Serj. Tremani. Read the other Paper.

Cl. of Peace. This is dated Dec. 31. 1690. I must not let this Bearer depart, Madam without assuring you —

Mr. Sol. Gen. Hold Sir, Don't Read that yet. Here shew this Paper to Captain Billop. *Which was done.*

What say you Captain Billop? Is that one of the Papers taken from Mr. Ashton.

Capt. Billop, Yes, This is one that I read and marked.

Mr. Sol. Gen. Then Read it.

Cl. of Peace, Reads: This is Directed for Mrs. Redding.

As 'tis impossible for me to express that Extraordinary great satisfaction it gave me this time Twelve Month, when I had the Honour to receive that Mark of your Favour and Goodness under your own hand; So I have lived in some pain for an Opportunity to write you my humblest acknowledgments and truest Duty from which by the Grace of God, I am no more capable of swerving, than of renouncing my hopes of Heaven: I say this in behalf of my Elder Brother and the rest of my nearest Relations, as well as for my self: You may intirely depend upon us, not only for a constant adherence to so well chosen a Principle, but for our utmost Activity to promote your Interest, which are inseparable from our own: I need come to no particulars by this Bearer, who can and will tell you our whole heart; and I wish you could see them, how sincerely they are devoted to your Service. God grant you a most happy New Year, and many, very many, and very happy. Our young Master hath all our best Wishes, he daily gains more Friends, and we get ground of his Adversaries. *New-Years-Eve.*

Mr. Sol. Gen. Now read your other Paper of the 31. Dec. 1690.

Cl. of Peace, Reads, December 31. 1690. I must not let this Bearer depart Madam, without assuring you of my best respects: I have written by him to a Friend of yours, but depend upon you to give my Note credit.

Though my Creditors were no Friends to the Match which has been so long in treaty for your Relations have been very hard upon me this last Summer; yet as soon as I could go safely abroad, I persued the business, and do beg you to believe, that no Endeavours of mine shall be wanting to perfect the Settlement. You once put me in hopes of seeing you before this Christmas: Your Friends are sorry for the Disappointment, Pray lose no more time than is of absolute necessity: The Bearer will tell you all things may be now easily settled, if the right way be taken. I long to hear how your young Daughter does, she will find many Friends, and I hope her Portion will be well secured. God send you a happy New-Year, and that I may be merry with you before it be far spent, and I beseech you keep me in the good Opinion of your Friend, I will always make good what I promised to you.

It is directed for Mrs. Charlton.

Juryman, My Lord, I desire to know what that is directed to.

Cl. of Peace, 'tis Directed to Mrs. Charlton.

Mr. Serj. Tremani, Shew Capt. Billop those two Papers.

Which was done.

What

What say you to them Captain?

Capt. Billop. My Mark is on the outside, but there is nothing written in that, I believe it is taken of from the Inner Paper.

Lord Preston, Pray my Lord is this any proof? I beseech you for Gods sake to have a Regard to a Mans Life.

Mr. Sol. Gen. Pray shew the Paper to my Lord Sidney. *Which was done.*

Lord Sidney, This was one of the Papers I received from my Lord President.

Mr. Sol. Gen. Then we must beg my Lord President would be pleased to look on it. *Which was done.*

Lord President, This was one of the Papers brought me by Capt. Billop, from my Lord Nottingham, in that Bundle.

Lord Preston, Capt. Billop does not know the Paper, though his Mark be to it.

L. C. J. Pollexfen, It is not indeed very material, whether he does or no, because he did not read all; but I would observe that 'tis sworn by my Lord Sidney, that this was delivered to him by my Lord President, and sworn by my Lord President, that he had it in that Bundle from Capt. Billop.

Lord Preston, But my Lord, It does shew that there may be some alteration in the Papers, because he having marked it, and marking none but what he read, he does not now own that to be the Paper.

Mr. Sol. Gen. Pray will your Lordship be pleased to take it as it is: These are two Papers; the one is only the Cover, the other is the Writing: Capt. Billop has only marked the Cover, and not the Writing, but my Lord Sidney he has marked the Paper it self, as delivered him by my Lord President, and my Lord President has given you an account, that it is one of the Papers he received in that Bundle from Capt. Billop.

Lord Preston, I only mark, That there may be alterations made in these Papers since they were taken.

Mr. Serj. Tremani, Pray Read it.

Cl. of Peace, December 31. 1690. It is Directed to Mr. Jackson.

The Bearer can give you so full an account of all things relating to your Estate here, that I need not have troubled you at this time, but that I am desirous to lay hold of any Opportunity I think safe to assure you of my Service, and that I will never quit your Interest whatever the rest of the Freeholders do: Your Adversary has been so hard to his Neighbours, that he has extreemly disobliged all the old Tenents, and a little matter would redeem the whole Estate, if you would appear in Westminster-Hall your self, the best Council have a good Opinion of your Title, and will zealously pursue your Instructions: I only beg you would hasten them to us, and that you will appear your self as soon as is possible, no time should be lost, and the Cause may be brought to a final hearing before the end of Easter Term, if it be well solicited. I heartily wish you a happy New Year, and beg you to tell Mr. Charlton that I long to know wherein I may serve him, and that I will follow his Directions to the utmost, while I live, God keep you and yours.

Lord Preston, Pray Sir, To whom is that Letter Directed.

Cl. of Peace, To Mr. Jackson, my Lord.

Mr. Serj. Tremani, Pray shew that Paper to my Lord Sidney. *Which was done.*

Lord Sidney, This is one of the Papers I received from my Lord President.

Then it was shewn to my Lord President.

Lord President, This is one of the same Papers that I received in the Bundle from Capt. Billop.

L. C. J. Holt, Read it.

Clerk of Peace, Reads, 31. December.

The Interruption of the former Correspondency had a very ill Effect many ways, but for that reason, no Opportunity ought now to be lost, and I hope this will prove a happy one.

In Trade as well as in Government Schemes must be laid, for there is no living from hand to mouth any more in Commerce than in the Politicks. Lay therefore your designs probably, and pursue them diligently, and with Vigour, though it be a hazardous time, yet by ventring boldly, where venturing is adviseable, it often returns great profit.

There is nothing more to be said, but to give the Bearer fit and full Seasons to tell what he knows, both as to Goods fit for our Market, and when and where to be sent; the Sea will quickly grow so troublesome, that unless you dispatch what you intend for us, you will loose a great opportunity of advantage. I hope the account he has to give of our Negotiations here, with the Merchants that deal with us, especially those that have lately brought us their custom, will both encourage a larger Trade, and excite the utmost diligence; I will say nothing of my self, It shall be enough that I can live in the good Opinion of

of one I bear so great a reverence and affection for ; but for this honest Factor, I must own I can hardly say enough, Truth and Boldness are excellent qualities in a Servant, and he has shewn both, as Occasion has required him to shew them.

I have but one word to add, and pray take it as the truest mark of unalterable respect, chuse well, but have to do but with a few, for a multitude may give, but can never keep Counsel.

I shall with more impatience then becomes me, wait the result of this, and it will be a great mark of goodness, to let us have it the best and safest way.

Once more, let not the Season spend unprofitably, for a more likely one can hardly come than between this and the 1st of March. Interpret this I pray, as no private Interest of my own, or partial motion of any other Person. It is my Sense, my Duty, and my Friendship, which will not let me prevaricate, nor suffer those I love and honour to loose so happy and pressing an occasion of advantage. With the best Wishes I close up this, and am &c.

Lord Preston. Pray, my Lord, who is that Paper directed to.

L. C. J. Pollexfen. This is directed to no body at all.

Mr. Soll. Gen. Shew that Paper to my Lord Sydney.

Which was done.

Lord Sydney. This was one of the Papers I had from my Lord President.

Then it was shewn to the Lord President.

Lord President. This is one of the Papers I had from Captain Billop.

L. C. J. Holt. Read it.

Clerk of the Peace Reads. This is Dated December 31. but is not directed to any Body at all.

IT is a presumption incident to those that are any where upon the spot, to think that they know better then those that are not, what is fittest to be done in any Occurrence. This makes me say, That now is the time to make large advantages by Trading ; the Sea being freer then two Months past, or we can hope it will be two Months hence. This Gentleman is well instructed in our Markets, and what the Goods are we want, and when and where they should be sent : It is most earnestly desired that this happy opportunity may not be lost, especially by the late Undertakers, and I would not for much, they should receive the least disgust. They are somewhat positive in their termes ; but they also say, they will be good and constant Customers ; and I have more than once seen the mischief of over-rateing and over-staying the Market. Opportunities are to be used, they cannot be given by Men.

The Bearer needs nothing from me to recommend him, but he is deserving in our Opinion here, and many will take their measures by the usage he finds there ; and indeed the pressing posture of our Trading Affairs will not permit more Experiments. If the several Parcels arrive not, that have been promised, before the 10th of March at furthest, (especially the Copper and Linnen, of which the Bearer will be more particular) I am satisfied we shall loose this Summers profit. I am the more pressing, because I am well assured of what I write ; and if ever I judged right it is upon this occasion.

I have said nothing of another Gentleman that takes this Opportunity to see those parts, but he has shewn a zeal and a sincerity in this affair equal to most. Jo. is not yet gone, by a misfortune, but he will follow with a good Postscript in this affair. Of my self I will say nothing, I hope I need not, for no body without Vanity can be more sincerely and affectionately a Friend and Servant to the Company than my self. I writ at large yesterday, and cannot write what the hand that gives this can say ; and therefore will write no more, but that with the greatest Respect, I am, &c.

Mr. Serj. Tremani. Pray shew this Paper to my Lord Sydney. Which was done.

Lord Sydney. This is one of those Papers I received from my Lord President.

Then it was shewn to the Lord President.

Lord President. This was one of the Papers in the Bundle I received from Capt. Billop.

L. C. J. Holt. Then read it.

Clerk of the Peace, Reads.

SIR, I vow to you, I do not repine at having lost all for your sake which I got by your favour, but it grieves me extremely that there is not that left which can secure me from being troublesome to you ; for that is the thing in the World I would not be. I have told my Lord my condition. What I desire of you he thinks very moderate, I hope you will. Pray Sir be not backward in settling my little affair, for I have deserved your Care. Your Daughter and I must starve, if this Government can make us. I hope our Interests are not divided, that is, you have an equal tenderness at least for both. If you think fit to speak what I would have you to this Bearer, he will give me a just account of it. You know he is obliged to be my Friend, and I believe him grateful, since he ventures so boldly for you. He brings with him some merry Papers. Adieu, for I dare write no more ; but pray send a Messenger on purpose to me, that I may know exactly what you will do, and would have me do.

do. If you send upon no other business there will be no danger. Pray Sir ask my Lord, and he will tell you how I have been used, and upon what account; I believe you know it not. Decem. the 29th. Your Daughter is very well, very tall, and very pretty, as I am told.

L. C. J. Pollexfen. That is not directed to any body neither.

Mr. Serj. Tremani. Pray then shew these Papers to my Lord Sydney and my Lord President; (which was done). They were two.

L. C. J. Pollexfen. These Papers my Lord Sydney swears he received from my Lord President, and my Lord President swears he received them in the Bundle from Billop.

Mr. Serj. Thompson. We pray they may be read.

Clerk of the Peace. Dec. 31. 90.

WAs my Condition more desperate and uneasy then it is, I desire no greater satisfaction then to have done my Duty to so good a Master, I wish it was of more use to him; that is not my fault, nor of those I have acted with: Let it be looked into what has been foretold both as to Engl. Scot. and Irel. and see if most of it is not come to pass already, and the rest will follow if not prevented. I wish it may also be considered what usage we have met with from men employed, and how they have left your Business and Friends; how they managed it, you will know from all hands; things they could not do, nor durst not undertake were better undone then not done by them. Men in this Place, and in these Times, must have some Courage as well as Sence to do any thing with People here. It is not my own ill usage makes me say this, but my concern for one I wish the best to in the World, and will give my proofs of this upon all occasions. I need not enlarge, since all our Grievances are known to him that brings this. For my own part I will stay here, so long as I can be safe, if with ne're so great trouble; but it would be some Comfort to know Men (when driven from hence) may be so; therefore the reports of Peoples usage are terrible, as well as of the indiscretion of St. Germ. Family, we feel the smart of it by ridiculous Letters falling daily into the hands of the Government. Their Master and Mistress are little obliged by it no more then we: If there is any thing, Sir, you do particularly command me, or depend upon me for, let me know it. I cannot undertake much, nor furnish more. I have still helped every Body, and paid to every thing I could; and if a twelve month ago my condition was what I then represented, you best know if it has been mended. Use, and considering that of others, makes me grow more contented; and if the prospect of Misery to us all was any satisfaction, that is now plainly seen.

Pray God bless us all, by restoring every Man his own, and you with long Life.

He that gives you this, hath furnisht for your use to me, &c. Two Hundred Pounds, which I desire may be repaid.

Mr. Soll. Gen. Read the 'tother, it is in the same hand, and was enclosed in the former.

Clerk of the Peace Reads. I only beg Madam, no ill malicious Report may take any place in your Thoughts, in regard to me. I value your good Opinion, and will endeavour to deserve it. I can do little towards, but wish most heartily for your Happiness. I know no Interest, Madam, but my Masters and yours, nor do I think they are to be made two: If you command me any thing, I will faithfully obey you, as I have ever done him.

We all here depend upon this Bearers accounts of us and our Condition. His Faith and Courage hath been enough experienced.

Mr. Serj. Tremani. Here is another Paper, shew that to C. Billop. Which was done.

Capt. Billop. This Paper I did mark, and this was one that was in the Bundle.

L. C. J. Pollexfen. What is it Brother, pray open it.

Mr. Serj. Tremani. 'Tis a draught of a Cipher, with an Alphabet of Names for carrying on the Correspondence.

Mr. Serj. Thompson. Your Lordship observes these matters were designed to be carried on under several sorts of Cants.

L. C. J. Holt. What says Captain Billop to that Paper?

Capt. Billop. That was one of the Papers that I read at my Lord Nottinghams, and markt it there.

L. C. J. Holt. Then Read it.

Clerk of the Peace Reads. For Mrs. Anne Russell, to be left with Mrs. Richeson at the Blew Bore in Ryder-street, near St. James's.

A — the King.

B — the Queen.

C — the Prince of Wales.

D — the Prince of Orange.

E — Canon and the Scotch Officers.

F — the Duke of Berwick.

G — Duke Tyrconnel.

H — Major General Sarsfield.

I — Lieutenant General Shelden.

L — King of France.

M — Marshal Luxembourg.

N _____ Marshal Belford. P _____ Dutcheſs Powis.
O _____ Duke Powis.

Amſterdam _____ Breſt. Harlam _____ Callis.
Rotterdam _____ Deip. Italy _____ England.
Hague _____ Havre de Grace. Germany _____ Scotland.
Brill _____ Dunkirk. Spain _____ Ireland.

Mr. Serj. *Tremain*. Then the next Papers we produce are the Bills of Exchange; Pray ſhew them to Capt. *Billop*. What ſay you Capt. *Billop*, were thoſe among the other Papers?

Capt. *Billop*. Yes, they were I remember very well.

Mr. Serj. *Tremain*. My Lord, they are in *French*, and therefore we muſt Swear a Gentleman that we have here, to Interpret: Call Mr. *Humphry Levermere*.

Mr. *Levermere*, Here I am.

(*He was ſworn.*)

A Londres, le 29 Septembre.

Monsieur,

L Es preſante vous ſera rendus par Monsieur Orbinet, qui eſt un de mes bon amis, & qui ſe fera cognoiſtre par quelque perſonne de voſtre Cognoiſſance. Vous m'obligerez tres ſenſiblement en de luy rendre ſervice en tout ce que vous pourres. Il pourra vous communiquer quelque Affaire en Commiſſion vous pouvez avoir Conſiance en luy de toutes les manieres je vous prie doncque l'obliger en tout ce que vous pourriez. Je ſuis

Monsieur, Voſtre tres humble & tres obeiffant Serviteur

A Mon. Mon. Jo. du Livier, Paris.

P. du Livier.

A Londres le 29 Decembre } 1690.
8 Janvier }

Monsieur,

A Un jour de veue il vous plaira payer par cette premiere d'Eſchange, a l'Order de Mr. Michel Orbinet, Trois Mille trois cents trente trois Livres valeur, du dit Sieur ſuivant l'advis de

Voſtre tres humble & tres obeiffant Serviteur,

A Mon. Mon. Jo. du Livier, Paris.

P. du Livier.

Londres le 29 Decembre } 1690. Pour Liv. 3333.
8 Janvier }

Monsieur,

A Un jour de veue, plaira payer par cette me premiere d'Eſchange, a l'Order de Mr. Michel Orbinet, Trois Mille trois cents trente trois Livres Tournois, valeur du dit Sieur & ſuiv.

Voſtre tres humble Serviteur,

A Mon. Mon. Anthoine Pelletyer, Merchand, a Paris.

J. Beriande.

Q

London

London the 29th December.

S I R,

His present will be delivered you by Mr. Orbinet, who is one of my good Friends, and who will make himself known by some Person of your Acquaintance. You will very sensibly oblige me in doing him Service in all that you can. He will be able to communicate some Affair in Commission; you may have Confidence in him about all Points: I pray you then to oblige him in all that you can. I am,

S I R, Tour most humble, and most obedient Servant,

To Mr. Joseph
Du Livier.

Paris.

P. Du LIVIER.

London the 29th, December }
8 January } 1690.

S I R,

At one days sight be pleased to pay by this First of Exchange to the Order of Mr. Michael Orbinet, Three thousand three hundred thirty three Livres, Value of the said Gent. according to the Advice of

To Mr. Joseph
Du Livier.

Tour most humble, and most obedient Servant,

Paris.

P. Du LIVIER.

London, 29 December }
8 January } 1690. For 3333 Livres.

S I R,

At one days sight be pleased to pay by this my first of Exchange, to the Order of Mr. Michael Orbinet, Three thousand three hundred thirty three Livres Tournois, Value of the said Gent. And I am

To Mr. Anthony Pelletier,
Merchant, at Paris.

Tour most humble Servant,

J. BERIONDE.

Mr. Serj. Tremain. Pray how much do they all come to?

Mr. Levermere. They come to 500 l. wanting but Twelve pence.

Mr. S. Tremain. My Lord, we have shewn your Lordship part of the Papers that were taken in this Pacquet, but we have reserved three of the Papers till the last place; and these three Papers, if we had no other, were sufficient to maintain this Indictment, for they are written all with my Lord Preston's own Hand, wherein he gives an Account how the French should Invade us, how the Forts may be taken, how London should be plagued, and what a sort of Rascals the Clergy of London are; these are the Contents of the Papers among other things. Pray shew them to Captain Billop. (Which was done.)

Capt. Billop. These were two Papers that were in the Pacquet, and the other little one with them.

Ld. Preston. My Lord, I would desire your Lordship to observe one thing, to the best of my remembrance, Capt. Billop said, he only mark'd six of the Papers.

L. C. J.

L.C. J. Holt. How many has he sworn to?

Ld. Preston. I believe he has proved more.

Capt. Billop. I never said so; I mark'd a great many, tho' not all, but I did not say how many.

Mr. Serj. Tremain. Were these Papers taken in the Pacquet?

Capt. Billop. Yes, all three.

Ld. Preston. Just now he said but two.

Mr. Sol. Gen. Have you look'd upon them all, Sir?

Capt. Billop. Yes, I marked but two of them, but the other little Paper was with them, I read them my self, I remember it very well.

Mr. Serj. Thompson. Then we pray the Clerk may read them.

(*Cl. of Peace reads.*) Lady D. 2000 l.

And 200 l. for Shop-debts——

Mr. S. Thompson. My Lord, we would open this piece of Evidence before we read it, that it may be understood, and we shall prove it to be my Lord's Hand afterwards. It consists of many Heads and Particulars, without Order or Method, and seems to be no more than *Memorandums* made by my Lord *Preston*, to put him in mind what he was to enlarge upon when he came thither.

(*Cl. of Peace reads.*) Lady D. 2000 l. And 200 l. for Shop-debts.

Pension upon the

14.——— 3 Deckt Ships.——— *Britania*, Ad.

Sovereign out and R--- *James*.

33 3d Rates, make the 14 and 30 67.

Sundry Hospitals and Fire-ships, some built on purpose proportionable.

Of Third Rates most mann'd: 14 not mann'd, great ones.

Rest in some proportion'd Mann'd, not well Manned, nor will be.

———*Britania* not out till *March*, the rest perhaps in *April*.

———The *French* must be out in *April*, and in the *Downs*: Look in at the *Spithead* to secure them.

The *Dutch* Fleet cannot then joyn them.

Carter and others at *Portsmouth*, the likeliest Men to come to him——

Dutch Fleet 36 Sail, 9 from 70, to 60 Guns; —12 from 50 to 60—the rest betwixt 60 and 70——Get to it before the Conjunction, otherways nothing. To fight in the Chops of the Channel; not to come so high as *Beachy*——*Portsmouth* not mann'd above 500——One *Gibson* a *Scotch* Pedler——Lands behind South-Sea Cattle——Nothing but *Pallifado's* about *Gosport*——*Jennings*, or *Strickland*, or *Trevannion* comes from *St. Maloes* in ope Night——most of the Gentlemen have done him most mischief, the *Tarpaulins* his best Friends, which despirited——*Danby* desires to be in the *Monk*, keeps and fortifies *Hull*——King not to be on Board the Fleet——Foolish Letters from *St. G's* taken every day in the D. Post, and read in Council—about *June*——*England* 67 great Ships. *Dutch* 60—commanded 36 to us, 24 to act by themselves—*Russel* in the *Britania* Admiral—*Killegrew* the Blue—the Duke—*Ashby* the *Royal James*—*Delaval* the *Sovereign*, Vice-Admiral Blue—*Carter* the Vanguard—Those who shall not oppose or resist him to be pardoned—Not 21 days coming in, or shall not help the P. of O. 600000 l. to the States of *Holland*—No Taxes in his Time—and the K. of *Fr.* will require nothing—Chimney-Money to be taken away—not excepting Outlaws—*Scotland*—let know whether the King will come or not soon, and acquaint him with the weakness of the Pr. Council—3 Dashes—or the like F. or——That's some kind Answer — *Mr. East* Merchant of *Bristol*

Bristol to be kept till called for *William St--* from *Amsterdam--Alexander--*
England--George--Scotland--Dorset, Cornwallis, Mountague, Stamford, Shrews-
bury, Macclesfield, Monmouth, Devonshire — In *Feb.* the *K.* come to *Scot-*
*land--*endeavour to unite the *Episc. and Presbit. Parties--* A less sum not in-
 terfere with the *Fr. K.* from *Highlanders--Campaigns--land at Leith--the*
Scotch Army not a *French* one, 5000 good *Suedish Foot*, the reputation of
 a Protestant Ally, two Months to settle *Scotland--a Commission* given to
 me from *Mr. P.--For Fl. hinder Eng. and D.* from joyning--two Vessels of
 150 *l.* price for *Pensylvania*, for 13 or 14 Months — *Ormond and Bran-*
don disoblged about the Guards.

To have 1200 Seamen from *Denmark and Holland.* — To save *Cam-*
bell. — To be left at the Ship in Sheets *Westminster.* — *Flanders.* — *R--*
Scotch Ships in *New-Castle Harbour* to plague *London.* — The *Modest En-*
quiry, the Bishops Answer. — Not the Chilling of them. — But satisf-
 ying of Friends. — To tell him that to Protect Friends, and so soon as Forreig-
 ners are gone, he will disfinis his. — The Woman that was with the *K.* in
Ireland, and sent Commission to *Stafford*, and failing, not
 to be sent again, her Friends live in *Covent Garden.* — Private Letters not.
 — Protesting Lords against the Usurper, Three of Five against the
 Vacancy of the Crown; *Beauford, Newcastle, Thanet, Sawyer, Lutwich, Pem-*
berton, Levintz, Winnington, Mountague, Shore. — *London Clergy* the worst,
 we have their Wishes, and they their Oaths. — *K.* Betrayed by *J. Porter,*
Seymour said it. — *Lord Nottingham* says there will be a Peace with *Fr.* and
 the *K.* lett out. — Bring Forreigners to drive out Forreigners, then dismiss
 them, leave all to a Free Parliament. — No Justices of Peace, &c. actually
 in Commission to be Criminal.

L. C. J. Holt. Well Gentlemen have you any more Evidence ?

Mr. Serj. Tremain, My Lord, we shall now prove these Papers to be my
 Lord *Preston's* own Hand. Pray call *Mr. Warr, Mr. Townesend, Sir Hen-*
ry Johnson, and *Mr. Bland.*

Mr. Townesend sworn.

Mr. Serj. Thompson. Pray shew *Mr. Townesend* that Paper. (Which was done.
 Pray, Sir, whose Hand-writing is that ?

Mr. Townesend, I believe this to be my Lord *Preston's* Hand; I did not
 see him write it.

L. C. J. Pollexfen, Are you well acquainted with my Lord *Preston's* hand ?

Mr. Townesend. I have seen his Lordship's Hand sometimes.

L. C. J. Pollexfen, How often ?

Mr. Townesend, Not very often, but I have seen it sometimes.

Mr. Serj. Thompson, Pray were you a Clark in any Office ?

Mr. Townesend, Yes, I am in the Office of the great Wardrobe, where I
 have had occasion to see his Lordship's Hand sometimes, and I believe this
 to be his Hand.

Mr. Serj. Thompson. Look upon the t'other two.

Mr. Townesend. I do believe these three Papers are my *L. Preston's* hand.

Mr. Serj. Tremain. Those are the three Papers that have been read last,
 which he says are my Lord's Hand.

Mr. Townesend. I do believe it, Sir.

Mr. Serj. Tremain. Pray look upon that Paper, with the little one with-
 in it; Do you know whose Hand that is ?

Mr. Townesend. I did not see it written, Sir.

Mr. S. Tremain. Do you believe you know who writ it, by the Hand ?

Mr. Townesend. The latter part looks like my Lord *Preston's* Hand; but
 I cannot well say any thing to the other, it is written so small. Mr.

Mr. Serj. *Tremain*. Then swear Mr. *Bland*. *(Which was done.)*

Mr. Serj. *Thompson*. Give him the Papers. We ask you, Mr. *Bland*, Whether you were well acquainted with my Lord *Preston's* Hand?

Mr. *Bland*. I have seen my Lord's Hand sometimes.

Mr. Serj. *Thompson*. Have you looked upon those Papers, Sir?

Mr. *Bland*. Yes, I have.

Mr. Serj. *Thompson*. Pray whose Hand are they?

Mr. *Bland*. I do believe these three Papers are my Lord *Preston's* Hand-writing.

Mr. Serj. *Tremain*. Then we pray Mr. *Warr* may be sworn. *(Which was done.)*

Mr. Serj. *Tremain*. Do you know my Lord *Preston's* Hand?

Mr. *Warr*. I have seen my Lord *Preston* write, but not very often; most commonly it was only his Name: but I have seen him write some Letters too.

Mr. Serj. *Tremain*. Pray, Sir, look upon those Papers; whose Hand are they do you believe?

Mr. *Warr*. This Paper seems to be like my Lord's *Preston's* Hand; the other I cannot say much of, because that which I commonly saw him write was a large fair Hand, and this is a little Hand.

Mr. Serj. *Tremain*. Pray Mr. *Warr*, look upon these Seals; whose Seals were they?

Mr. *Warr*. I believe the Seals to be my Lord *Preston's*; one of them was his Seal when Secretary of State.

Mr. Serj. *Thompson*. You were under him in that Office, were you not?

Mr. *Warr*. Yes, my Lord, I was.

Mr. S. *Tremain*. Now my Lord, we have done with our Evidence, and shall rest here till we hear what my Lord *Preston* says to it.

L. C. J. *Holt*. My Lord *Preston*, you have heard what has been said concerning the matter you have been Indicted for; What has your Lordship to say for yourself?

L. C. J. *Pollexfen*. If the Gentlemen of the Jury desire to see the Seals, they may have them. *[The Seals were shewn to the Jury.]*

Mr. Sol. Gen. My Lord, we have done for the present.

L. C. J. *Holt*. Then if your Lordship please, you may make your Defence.

L. *Preston*. My Lord, in the first place I must refer myself again to my Indictment, for I find, my Lord, that the Treasons of which I am accused, were none of them done in the County of *Middlesex*, and they are laid to be done within this County; I find nothing of that kind proved upon me to be done here, for any Memorandums that they say may be in that hand, I hope the Gentlemen of the Jury will consider, that there was nothing followed upon any of these things, that may be found in those Papers: And in the next place, I desire to know, whether they are sufficiently proved to be mine; that is, whether similitude of Hands is proof or not against me in such a case. I humbly offer these things to your Lordship, and hope your Lordship and the Jury will consider of it.

L. C. J. *Holt*. Is this your Lordship's Defence, my Lord?

L. *Preston*. My Lord, I leave these things to the consideration of the Court and the Jury.

L. C. J. *Holt*. Your Lordship insists upon it first, that there is no act of Treason proved in the County of *Middlesex*; and then, whether similitude of Hands be a good proof to prove these three Papers, or any of them to be your hand.

L. *Preston*. No body saying they see me write them, if I did write them.

L. C. J. *Pollexfen*. My Lord, have you no Witnesses, nor nothing that you would use of Evidence for yourself?

L. C. J. *Holt*. Would your Lordship disprove any thing of the matter that has been proved against you ?

Lord *Preston*. I must deny the whole Fact ; but I have no Witnesses or Evidence to offer you.

L. C. J. *Holt*. Then your Lordship has no more to say ?

Lord *Preston*. I have not, I must leave it so with your Lordship and the Gentlemen of the Jury.

Mr. Sol. Gen. We shall offer nothing farther, but leave it wholly to your Lordship.

L. C. J. *Holt*. Your Lordship has done then ?

Lord *Preston*. Your Lordship observes none of the Witnesses have declared that I was going into *France*, nor knew any thing of it. I did not hire the Ship, nor any thing of that kind ; tho' I suppose if they had, it is not Treason ; but your Lordship observes there is no such thing has been sworn.

L. C. J. *Holt*. My Lord, as to the first matter that your Lordship makes a Question upon, Whether there be any act of Treason proved in *Middlesex*, that does depend upon the Proof of your Lordship's being concerned in the Papers, for if your Lordship had an intention in carrying these Papers into *France*, which speaks a design to Invade this Realm, your Lordship took Boat in *Middlesex* at *Surrey-Stairs*, in prosecution of that intention, there is an Overt-act in this County of *Middlesex*.

Lord *Preston*. Your Lordship and the Gentlemen of the Jurie observe these Papers were not found upon me.

L. C. J. *Holt*. No, my Lord ; but if it be proved that your Lordship had an intention to carry these Papers into *France*, and took Boat in order to go with them into *France*, in the County of *Middlesex*, where-ever your Lordship acted in order to that design, that is Treason, and there you are guilty. It is a Treason complicated of several Facts, done in several places.

Lord *Preston*. My Lord, I humbly desire to know, whether they have been proved to be my Papers ?

L. C. J. *Holt*. That is a Question that must be left to the Jurie upon the Evidence.

L. *Prest*. No body swears they are mine, nor were they found upon me.

L. C. J. *Holt*. But what I am speaking to your Lordship, is in answer to your Question about the place, for you say, that there is nothing proved done in the County of *Middlesex* ; now the question is, whether your Lordship had a design to go to *France* with these Papers ; if you had, and if your Lordship did go on Ship-board in order to it, your taking Boat in *Middlesex* in order to go on Ship-board, is a Fact done in the County of *Middlesex*.

L. *Prest*. It is not proved by any Witnesses that I designed to go into *France*.

L. C. J. *Holt*. That is before the Jury upon the Evidence.

L. *Prest*. I hope your Lordship, and the Jury will observe 'tis not proved, and in the next place, there are no Papers taken upon me, with humble submission, there is no proof of any such thing.

L. C. J. *Holt*. Well, how far your Lordship was concerned in these Papers, and whether you were going with them into *France*, is to be left upon the Evidence that hath been heard, to the consideration of the Jury.

L. *Preston*. But I humbly submit that.

L. C. J. *Holt*. Have you any more to say.

L. *Preston*. As to what I offer, that nothing has been proved in *Middlesex*, I hope your Lordship will take it to be a Point of Law, and then it ought to be argued ; and I desire I may have Council.

L. C. J. *Holt*. No, 'tis a Matter of Fact only ; but if you please, the rest of

of my Lords the Judges may give you their Opinion ; for this is a Question upon a supposition that your Lordship was guilty of a Design of going into *France*, and this with a purpose to depose the King, and alter the Government ; then the Question is upon such a Supposition that you were guilty of that Design whether you were guilty in *Middlesex* or no.

L. Preston. My Lord, they have not proved that design.

L. C. J. Holt. We do not say, it is taken for granted now, but 'tis a Question upon a Supposition. Now my Lord, I'll tell your Lordship in short my Opinion, the rest of the Judges will tell you theirs, I am of Opinion, if your Lordship had such a Design to go with these Papers into *France*, and these Papers were formed by you, or you were privy to the Contents of them, then it is plainly proved, that you went into a Boat in the County of *Middlesex*, in order to carry on this Design, and that will make it a good Indictment, and here is a plain Overt-act of High-Treason in *Middlesex*.

L. C. J. Pollexfen. I am of the same Opinion ; for your Fact as to this particular Point in Law stands thus: You are Indicted of High-Treason in two Points ; one is, For Conspiring to Depose the King and Queen, and alter the Government : and the other is, For Aiding and Assisting the *French* King, and his Subjects, declared Enemies, and in open War against the King and Queen, and to invite the Enemies of the Kingdom to invade the Kingdom. Now this Design, and this Help and Assistance, are written in these Papers ; for they are Instructions for the carrying on of this Design. You my Lord are the Person that is charged to go with these Papers to help on this Design ; you began your Journey in the County of *Middlesex*, for according to the Evidence, you took Water at *Surrey-stairs*, which is in the County of *Middlesex*, and every step you made in pursuance of this Journey, is Treason, where-ever it was : So then here is a sufficient proof of a Fact in *Middlesex*.

L. Preston. That, my Lord, is a Point of Law, and I humbly desire your Lordship, that I may have Counsel in this Case. It is not proved by any Body, that I said I would go into *France* ; and in the next place, it is not proved that I had these Papers about me ; there has been no Evidence given that I did take Water with an intention to go with these Papers into *France*.

L. C. J. Holt. The Jury are to be Judges of that.

L. Prest. Then, my Lord, what have I done ? I have not done any thing within the danger of any Statute upon which I am Indicted ; besides, my Lord, what I have to offer further, is this, I think I ought to have two credible Witnesses to prove every Fact, and I hope the Gentlemen of the Jury will consider, there is nothing but Supposition as to me ; and I hope I and my Family shall not be ruined upon a Supposition.

L. C. J. Holt. Has your Lordship any more to say ?

L. Prest. All the Judges have not given their Opinion.

L. C. J. Holt. The rest will give their Opinions, if you desire it.

My Lord Chief Baron, what say you ?

L. C. Baron. My Lord *Preston*, I am called upon, it seems, to give my Opinion in this Case, but this I take it must be left to the Jury. What credit they will give to the proof, your Lordship makes a Question, as the proof stands, Whether here be any thing done in this County ; here are Instructions given to the *French* King how to Invade *England* and Carry on the War against us. These Instructions are contained in several Papers, and these Papers in a Pacquet are carried to the Smack, which Smack was hired to go to *France*. You are found taking water at *Surrey-Stairs*, which is in the County of *Middlesex*, in order to go to the Smack: You did go to the Smack ;

Smack; the Papers were taken in your Company, and were seen lying by your Seals; and the Witnesses swear, they believe some of them to be your Hand; you took care to desire to have them disposed of. Now how far the Jury will believe this Matter of Fact, that is thus testified, is left to them; this seems to be the Proof, and if the Jury do believe it, here is a Plain Evidence of an Overt Act in the County of *Middlesex*.

L. Preston. I do insist upon it, with humble submission, It is not proved that these Papers were taken upon me, or that I did take water at *Surrey-Stairs* to go to *France*.

L. C. Baron. That must be collected out of all the Circumstances; the Credit of which is left to the Jury.

L. Ch. J. Holt. All the rest of my Lords the Judges are of the same opinion, as they tell me? Have you any more, my Lord?

L. Preston. I must submit.

L. C. J. Holt. Gentlemen of the Jury, My Lord *Preston* stands Indicted for High Treason, in imagining and compassing the Deposition, Death, and Destruction of the King and Queen; and for that purpose, did write, or cause to be writ, several treasonable Papers and Letters, designed to go into *France*, and there to correspond with the *French King* and his Subjects, who are Enemies to the King and Queen; and to carry with him those Treasonable Papers and Letters, containing a Project and a formed Design how this Kingdom should be invaded by Foreigners.

There is another Treason in the Indictment mention'd, and that is for adhering to and abetting the King's Enemies, there being open War declared betwixt the King and Queen, and the *French King*.

You have heard, Gentlemen, a very long Evidence, Witnesses have been produced *vide voce*, and several Papers have been read to you; some of the Papers that have been produced, tho' they may seem misterious and canting, yet they are not so very obscure and unintelligible, but if you consider them well, the meaning of them will appear. Others of them are more express, and do plainly demonstrate a Design, that this King and Queen should be deposed, and that there should be another Prince set upon the Throne, and restored to the Government of this Kingdom.

Gentlemen, There are two other Persons mentioned in the Indictment with my Lord, and tho' my Lord is only now upon his Tryal, yet the evidence which doth affect them, doth also concern my Lord.

You have heard how there was an Intention of some Persons to go to *France*, and how *Mr. Ashton*, one of the two others that stands indicted with my Lord, did treat with one *Mrs. Pratt*, one of the Witnesses, to hire a Vessel for that purpose, and it was by the means of one *Mr. Burdett*, that lives in the City; they had a Meeting at *Burdett's House*, where they treated about the Price that should be given for the Hire of this Ship to go to *France*, but at that time they did not agree. It was concluded, that the Woman and *Ashton* and *Burdett* should meet at the *Wonder Tavern*, but *Mr. Burdett* not being there, nothing was concluded upon then.

After that the Woman, *Mr. Burdett*, and *Ashton*, and *Elliott*, met at *Mrs. Burdett's*; the Woman insisted at first upon 150 *l*. After they had been treating for some time, the Bargain was made to go to *France* for 100 *l*.

Then the next thing considered was, How this Money should be paid; By agreement, 93 *Guenes* and 6 *d*. which made up the 100 *l*. was deposited in *Mrs. Burdett's* hand, a Six-pence broken, one part *Mrs. Burdett* had, and the other part of the Six-pence *Mr. Ashton* had; and when either *Mrs. Pratt*, or the Master of the Vessel did bring back that part of the Six-pence that *Ashton* had to *Mrs. Burdett*, the Money was to be paid.

After

After this Agreement, they were appointed to go to the *Seven Stars* in *Covent-Garden*, to the House of one *Mr. Rigby*, and there the Woman, *Mrs. Pratt*, and the Master of the Vessel, *Ashton* and *Elliot* met, and they were that Night to go away and to take Water at some place near to go on Ship-board; and having stayed there till it was about ten a Clock at Night, then they went away into the Strand and so into *Surry-street*, and took Water at *Surry-stairs*.

But before that they came from *Mr. Rigby's*, some Persons went to *Surry-stairs* to see for a Boat and met with that Fellow that was here produced, who was a Sculler; and did hire him to go through the Bridge when the Tide served, and to carry some Gentlemen on Shipboard; they agreed with him for half a Crown, and he was to stay in an House near the Stairs until they came.

And at the time appointed, *Mr. Ashton* and *Mr. Elliot* and the Master of the Vessel came to that place, and my Lord *Preston* and his Man with them to take Water. My Lord *Preston* was not at *Burdett's House* at the hiring of the Ship, nor at *Mr. Rigby's*; but it is proved by the Master of the Vessel, that he took Water with the rest of them at *Surry-stairs*, that he went with them on Shipboard, and was to go along with them.

Being on Board the Ship, they did appear to have some Apprehensions of Danger, and passing by a *Man of War*, my Lord *Preston*, his Man, and the other two went under the Quarter-Hatches, where they lay down to prevent themselves from being taken or discovered; and they hid another time when they came near *Gravesend*, and coming up they seeing a Boat coming towards them, they hid themselves again. Captain *Billop*, who, it seems, was sent to apprehend them, pretended he was to Press Seamen, and when he came on Board the Smack he said he would Press the Mariners, who answered they had a Protection: But he being upon his Search pulled up the Boards of the Quarter-Hatches, and there was my Lord *Preston* and the other Persons lying down: It was not a place that was very proper for Gentlemen, or indeed for any Passengers, to repose themselves in; it was an uneasy place, no body could stand or sit upright in it, nay there was no convenient Place for lying down but they must lean upon their Elbows, which posture those Gentlemen were in; so that their purpose was plainly to conceal themselves, and their concealing themselves must be because of some Design they were about, which they would not have discovered.

They being taken out from under the Hatches, one of the Witnesses tells you he saw a Pacquet lying there, and *Ashton* pretending to fetch his Hat, went down, took it up, and put the Pacquet into his Bosom; and the Witnesses informing Captain *Billop* thereof, he caused *Ashton's* Coat to be searched, and from thence took the Pacquet and a piece of Lead tyed to it, which was produced here in Court.

When they were bringing away in Custody, they seemed all of them to be very much concerned about this Pacquet; some of them, that is, *Ashton* and *Elliot*, would have had it thrown with the Lead over-board. My Lord *Preston* did not say so much, but Complimented Captain *Billop* in this manner, He was glad he was fallen into the hands of a Civil Gentleman, a Person of worth, and he should always acknowledge his Kindness, and would do him all the service he could if he would dispose of the Pacquet.

My

My Lord *Preston* was searched at that time, and Letters of no great moment taken about him. *Ashton* and *Elliot* would have had Captain *Billop* to take those Letters which were taken in my Lord *Preston's* Pocket and tyed the Lead to them and have thrown the Pacquet over-board, and to report to the King and Council, That those Letters were the Pacquet that was taken with the Lead, and so have perswaded him to be false to the Trust that was reposed in him.

And *Ashton* and *Elliot* used many Expressions to induce him to that Compliance; they told him the Government was unstable, and every Dog had his Day, and the Tide would turn; and that he would deserve very well if he would change sides and go with them where they were going, and that he had opportunity to get any Preferment he would have.

Lord *Preston*. My Lord, I hope your Lordship observes that I said none of all this.

L. C. J. Holt. No, my Lord, I do not say you did; my Lord *Preston* did not say any thing of all this, but only about disposing of the Pacquet that his Lordship spoke of to Captain *Billop*, and Complimented him, and promised him Kindness if he would dispose of the Pacquet.

But, Gentlemen, as there was a Pacquet taken, so there were two Seals taken at the same time and in the same place, which have been produced and shewn to you; they lay both of them upon the Ballast under the Quarter-Hatches, near the Pacquet: the one of them is the Seal of my Lord *Preston's* own Coat of Arms, the other Seal belongs to the Secretarys Office, which Office my Lord once held in the late Reign.

Lord *Preston*. I beg your Lordship would be pleased to observe that the Papers were not taken upon me, and it can be no Treason to have Seals, I suppose.

L. C. J. Holt. Good my Lord, I will not do your Lordship any wrong; I do not say that the Papers were taken about you; no nor the Seals; but only that they lay upon the Ballast from whence the Pacquet was taken: And I say further, That these Seals are not denied by your Lordship to be your Seals; the one is your own Seal of your Coat of Arms which was taken at that time, and so I do not your Lordship any wrong, and by the Grace of God will not.

Lord *Preston*. It is no Crime, I hope, to have Seals.

L. C. J. Holt. I do say, my Lord, the Papers were taken about *Ashton* and not about your Lordship; but they lay upon the Ballast where the Seals were, and where your Lordship lay: But how far my Lord *Preston* is concerned in this matter, is to be considered by you of the Jury by and by.

Now, Gentlemen, you have heard how earnest Mr. *Ashton* and Mr. *Elliot* were; one of them, to wit, *Elliot*, wisht a Thunder-Bolt might strike the Boat under Water as they were coming back; and when they came through Bridge he wisht that *London-Bridge* had fallen upon them and knockt them upon the head.

Lord *Preston*. But I hope that is not to lye upon me neither, for I said no such thing.

L. C. J. Holt. No: But *Ashton* and *Elliot* did say these things, and how the case stands as to that in Relation to your Lordship is to be considered. It is proved they afterwards gave Mony to the Seamen, half a Crown a piece, to two of them, to say they were going to *Flanders*, and not to *France*.

Now Gentlemen, that my Lord was on Board this Vessel, that my Lord was under the Hatches, and that the Papers were taken in this manner

manner, is beyond all contradiction : So likewise that the Ship was hired for *France* ; that my Lord took Water at *Surrey Stairs* ; and was taken in this Vessel in that manner that you have heard.

The next thing Gentlemen is about the Papers : I must tell you though there are several of them that do seem mysterious, yet they are Papers that do shew a very great design of Deposing the King and Queen, and a purpose of altering the present Government.

But Gentlemen, I will mention to you those Papers that are very plain, and leave you to consider what contruction to put upon those that are obscure. There is one Paper that seems to be instructions and heads for a Declaration, that is to say, That the King of *France* must not come with a design to make an intire Conquest.

L. Preston. My Lord, with submission to your Lordship, I hope you will please to remember and observe to the Jury, that Paper is not proved to be mine.

L. C. J. Holt. No my Lord, I'll do your Lordship no wrong, but I cannot speak all my words at once.

L. Preston. I am sure you will not my Lord, but I beg leave to put your Lordship in mind.

L. C. J. Holt. Well then Gentlemen the Paper begins, *That the Kings Declaration is to be formed in general Terms, that he will govern by the Laws, that they shall be the Rule of his Actions, that he will endeavour to settle Liberty of Conscience by a Law, and that whatsoever was done by him that gave any occasion of Jealousy, shall be settled by Parliament. That he hath given sufficient Proofs and Evidence of his not being willing to bring an Army of Strangers into the Kingdom, by refusing the Succours the King of France offered him, and that were ever ready to be Embarked upon the first notice of the Prince of Orange's coming. That he brings such an Army only as is necessary for his own Defence, and securing such of his Loyal Subjects as should come to him ; and that he will dismiss them as soon as he shall have rid the Nation of those Foreigners that had invaded us, and trampled upon the Laws.*

So that Gentlemen, here is a Paper in this Pacquet, that has plainly laid open and proved the Design, and shews the meaning of it was to seduce their Majesties Subjects from their Allegiance ; it was to be in such general Terms, making general Promises, hoping thereby that People would be the more easily imposed upon to renounce their Allegiance to their present Majesties.

But Gentlemen, the Declaration imports farther, that the Realm was to be invaded by Foreigners ; and to palliate it, it is pretended that Foreigners were only to be brought in to rid the Nation of Foreigners, and you know who are meant by that : So that this Project was only to colour a Foreign Invasion ; and this Declaration was to direct them how and upon what pretences they should Invade this Kingdom.

Gentlemen, there is no manner of doubt but this is a Treasonable Declaration, and if any Person had this in his Possession, and was going into *France* to carry, with an intention there to make use of it, that is Treason, though it be coucht under specious Pretences of restoring People to their Liberty : It was plainly a Design to Invade *England* by a *French Army*.

L. Preston. My Lord, that Paper was not found about me.

L. C. J.

L. C. J. *Holt*. No, no, my Lord, it was not ; but good my Lord give me your favour, I will certainly observe every thing that is fitting ; but I tell you I cannot do it all at once.

Then Gentlemen, there is another Paper found in the *Pacquet*, that is said to be the result of a Conference that was had between divers Lords and Gentlemen, as well Tories as Whiggs as they call them, to prove it possible to restore the late King by *French* Arms ; and how this may be effected, were Proposals made : Yet still it was pretended to preserve the Protestant Religion, and the Civil Administration according to Law.

And that it might be brought to pass, the Credulous were to be imposed upon, and made to believe that the *French* King would not conquer *England* for himself ; no, but he would conquer it for the late King ; he would be at that vast Charge, that great Expence of Men and Arms to restore King *James*, and make no Profit of it himself.

And it was proposed how to seduce the People of *England* into a belief of the *French* Kings kindness ; He was to indulge the *English* Protestants in *France*, and let them have the exercise of their own Religion there at their own Charges ; and this to satisfy the *English* Protestants, that his Persecution of the *Hugonots* in *France*, was not out of aversion to the Protestant Religion, but only because of their Antimonarchical and Resisting Principles. So that they were proposing among themselves what they were to do to make the People believe the *French* King had no dangerous Design against our Religion and Liberties ; and if they could meet with Persons to believe this, that was a probable way thought upon in this Conference to get a great many Adherents to the *French* King, thereby his Invasion to be facilitated, and the whole Project rendered more successful.

There is another thing Gentlemen, in this Paper, and that is this ; they complained of the mismanagement of their Affairs at *St. Germain* ; that though they did earnestly desire the restitution of the late King, yet there was always some Foolish thing or other that came from *St. Germain* that obstructed their Design.

What that Foolish thing is, I can't say, it does not appear ; but whether it were not too great a Discovery of their Zeal for Popery, and the advancement of the Popish Religion, is worth your consideration.

And something is to be done for satisfaction of the People as to that ; and it is advised that there should be Seven, or Nine, or such a Number of *English* Men that should go over, and be received into favour at *St. Germain*, and they should be of the Council there, and these were to be Protestants ; and that was to be a colour and pretence that the late King was reconciled to the Protestant Interest, because he chose Protestant Counsellors, and had received them at *St. Germans*, and was advised by them.

This, says the Paper, will make the World believe, he is ours, and that we have gained him ; which was to delude a great many of the People of *England*, that they should not be affrighted in case there should be such an Invasion of *England*, but invited rather, and encouraged to joyn with the *French* when they came.

But Gentlemen, the Three last Papers that have been produced to you, are Papers that do somewhat more nearly concern my Lord *Preston*.

The First Paper contains several Memorandums; It begins with Lady D. 2000 *l.* who that Lady D. is, I must leave it to you to imagine, tho' perhaps it may not be hard to guess.

It takes notice that the *English* and *Dutch* were like to joyn; and these Memorandums do also shew a design and purpose of something to be done for the prevention of that Conjunction. They seem also to be Instructions to be made use of upon going into *France* to negotiate or transport some matters of dangerous consequence.

L. Preston. My Lord, I hope that your Lordship will observe, that these Memorandums are broken kind of Notes, incongruous and incoherent.

L. C. J. Holt. Ay my Lord, they are so, they are but broken things; but I say still, they are Memorandums that were to be used for some purpose: Now I leave it to the Jury to consider of the matter of them: What can be plainer than what is there expressed? The *French* are to come in time, before the *Dutch* and the *English* joyn; they are to watch their opportunity and come betimes, and they are to fight at the Chops of the Channel, and not to come so far as *Beachy*.

L. Preston. This is all but presumptive Evidence, my Lord.

L. C. J. Holt. I appeal to your Lordship if it was not in the Paper, and I appeal to the memory of the Jury whether I misrepeat it or not.

The Paper mentions *Gennings* and *Strickland* and *Trevannion*, that they were to come from *St. Mallo's* in one Night; the King (meaning the late King) was not to be on Board; and there were Ships to lye at *Newcastle*, to plague *London*: It is easy to understand what they meant. Among these Memorandums, it is made as a remark, that the *London* Clergy are the worst. It gives an account how *Portsmouth* was fortified, and *Gosport*, and what number of Men were in them; and of the state and condition of our Navy; what rates our Ships were, and how many, and who were to be the Commanders.

L. Preston. I beg your Lordship to observe this is not Treason.

L. C. J. Holt. I shall tell you that my Lord, by and by; I am now stating the Evidence.

Gentlemen, my Lord *Preston* insists upon it, that these Papers were not found about him: It is true, they were not, but it does not therefore follow that they were none of his Papers: But you have Three Witnesses, Mr. *Townsend*, Mr. *Bland*, and Mr. *Warr*, produced to prove these Papers to be my Lords Hand; Mr. *Townsend* says he was acquainted pretty well with my Lord *Preston's* Hand; he was one of his Clerks in the Office of the Wardrobe; he says he has seen my Lord write several times, and does believe the Writing to be his Hand; and to the same purpose says *Bland*; and Mr. *Warr* swears to one of the Papers, that he believes it to be my Lord *Preston's* Hand.

L. Preston. I hope your Lordship will please to observe to the Jury, That this is only a proof of Similitude of Hands, no body see me write them.

L. C. J. Holt. They only say they do believe it to be your hand; no body says they saw you write them; if I omit any thing, pray tell me when I have done.

Gentlemen, there are other Papers which have been produced and read, that are writ in Canting Terms, which yet plainly shew the general Design; they tell the Party that Council are of Opinion, he has a very good Title; they hope he will appear himself, and if the cause be well solicited it may come to a hearing before the end of *Easter Term*.

There is another matter mentioned in another Letter which is under the disguise of Trade, That the Goods must come before the first of *March*. And another of them says, That unless the Copper and the Linnen come before the tenth of *March* they should lose this Summers Profit.

Gentlemen, what can be the meaning of all this?

Lord *Preston*. I know not indeed, my Lord.

L. C. J. *Holt*. In another of the Papers it is said, 'Tis thought our Fleet will be ready by *March* or *April*, but they believe not till *June*.

Truly, Gentlemen, I have not been able to take the particulars of every Letter, but I must leave it to your Observation; only there is one of them that makes mention of acquainting my Lord with condition of the Writer, and direction is therein given to speak to the Bearer; and what other Lord was there, but he in the Company?

Lord *Preston*. I desire to observe, my Lord, that I was not the Bearer.

L. C. J. *Holt*. Truly, my Lord, I can't tell who was meant; I must leave it to the Jury to judge of that; but there was no other Lord in that Company.

Lord *Preston*. I give your Lordship thanks for observing that it was not proved that they were taken upon me before; but I beg your Pardon for interrupting of your Lordship.

L. C. J. *Holt*. Interrupt me as much as you please, if I do not observe right; I will assure you I will do you no wrong willingly.

Now, Gentlemen, the Question is in the first place, Whether this be Treason? and I told you before, without question, if any Persons do go into *France* to Negotiate such a design as this, or do purpose to go into *France*, and do any Act in order thereunto, that is High Treason; and these Letters do import High Treason as great as can be committed, a Treason againg the King and Queen, a Design to invade the Realm, to subvert the Government, to restore another Prince to the Throne by the assistance of Foreign Force.

There was a Design to delude and impose upon a great many People, and those that would not be deluded into a belief by these fair Pretensions of Friendship, they were to be subdued by an Army of Foreigners.

Then, Gentlemen, the next Question will be, how far the Lord *Preston* is affected by this Evidence, and whether you have sufficient proof from what has been offered, to satisfy you, that he is Guilty of this Treason or no.

First my Lord tells you, there has not been a clear proof that these are the Papers that were taken; for (saith he) they have been conveyed from hand to hand, and therefore possibly there might be some Alteration made in them. You, Gentlemen, are to consider, notwithstanding this objection, whether the Identity of the Paper be not proved.

Captain *Billop* tells you he took them, and in what manner; and afterwards carried them to my Lord *Nottingham*, who laid them by for a little while upon his Table, and Captain *Billop* withdrew (that is part of my Lords Objection) while my Lord *Nottingham* examined my Lord *Preston*: after that, my Lord *Nottingham* called in *Billop* again, and *Billop* swears the Pacquet was not opened, but remained intire in such manner as they

they were delivered to my Lord *Nottingham*; and so says my Lord *Nottingham*. Then Captain *Billop* saw my Lord *Nottingham* open it at that time, and he saw all these Papers every one put up again by my Lord *Nottingham*; so that he could not be deceived: and my Lord *Nottingham* delivered them to him, and he carried them to my Lord President all sealed up with my Lord *Nottingham's* Seal: And my Lord President tells you he opened them, and brought them to the King, and had them back from the King; but they were never out of his sight while the King read some of them, but he took them all and brought them to the Cabinet-Council, where my Lord *Sidney* received all these Papers that have been read, and marked them. You have my Lord *Sidney's* Oath that these are the Papers he had from my Lord President; you have my Lord President's Oath that he had them from *Billop* sealed with my Lord *Nottingham's* Seal; you have my Lord *Nottingham's* Oath that he had them from *Billop*; and *Billop* swears that they were taken in the Smack.

So that it is plain, if you believe this Evidence, that they are the same Papers. Besides, as to several of them, *Billop* marked them, and swears directly to them. If you believe these Witnesses, as you have no reason, I think, to the contrary; It is plainly proved these are the very Papers which were taken from the Bosom of *Ashton*, and taken up by him from under the Quarter-Hatches in the Smack.

Lord *Preston*. I beg your Lordships pardon for one thing.

L. C. J. *Holt*. My Lord, what say you, pray? Say what you will.

Lord *Preston*. With humble Submission, there is one thing that I think the Jury ought to take notice of, That when the Papers were sent from Mr. *Bridgman* to my Lord *Sidney*, they were sent by a Messenger.

L. C. J. *Holt*. My Lord, you are mistaken as to that Objection, for my Lord *Sidney* did not send them to Mr. *Bridgman* by a Messenger, but he delivered them with his own hand, and after he had set his own Mark upon them; and Mr. *Bridgman* says they were never out of his sight, he copied them all but two or three, the other Mr. *Poultney* copied in his presence, and so he swears he redelivered them to my Lord *Sidney*.

Lord *Preston*. With humble submission, my Lord, if I remember right, they were in a third hand.

L. C. J. *Holt*. Never, never.

Lord *Preston*. Did not my Lord *Sidney* say so, or Mr. *Bridgman*?

L. C. J. *Holt*. No: neither my Lord *Sidney*, nor Mr. *Bridgman* said so; I suppose the Jury are apprehensive of the matter; I would not mislead them, I'll assure you, nor do your Lordship any manner of Injury in the World.

Lord *Preston*. No, my Lord, I see it well enough that your Lordship wou'd not; I am for my Life, and beg your Lordships pardon for my interrupting of you.

L. C. J. *Holt*. Gentlemen, the next thing is to consider, Whether my Lord *Preston* be answerable for these Papers, or a Party in this Treason.

First, Gentlemen, I would have you to consider that there was the hiring of a Vessel for *France*: It is true, my Lord *Preston* was not present at the bargain; but you observe that my Lord *Preston*, his Servant, *Ashton* and *Elliot* took Water at *Surry-stairs* on purpose to go on Board that Smack.

Now, Gentlemen, Whether or no you can intend any other ways than that my Lord *Preston* was privy to the hiring of this Vessel, though he was not present at the hiring of it; for how should my Lord *Preston* be ready to take Water with them at *Surry-stairs*? Can you imagine my Lord came there by chance, and took a sudden Resolution? If you can imagine that he

came

came only to go on Shipboard without knowing the Previous Design, truly you imagine a very great thing for my Lords advantage.

It is plain he went voluntary without Compulsion ; truly, I think the Evidence is very strong to induce you to believe he was privy to this design, and that he did know of hiring the Vessel.

Lord *Preston*. I hope your Lordship will observe at the same time, that I was never seen before we took Boat.

L. C. J. *Holt*. My Lord I have observed it, and I lay that weight upon the Evidence, that I think it will naturally bear, and no more ; and leave it to the Jury to consider, whether your Lordship was privy to the Design or no, when they weigh the Circumstances of the Evidence together.

Lord *Preston*. I hope I shall not be condemned upon Presumption and Argument.

L. C. J. *Holt*. What weight the Evidence has they will consider.

And then, Gentlemen, there is another thing that I would observe ; Why should my Lord *Preston*, a Noble Man, a Person of his Honour and Quality, put himself in such a place as he was found in, and that twice ? It must sure be out of an Apprehension of some Danger. As for the Seamen they were secure enough ; they were not frightened, because they thought they were protected, and my Lord *Preston* knew he was not lyable to be Prest ; the Master of the Vessel tells you they were fearful, and therefore hid themselves in a place they could not stand in, nor sit in ; there was the the Gravel and Ballast, it was uneasie to them, dangerous to their Health to be there.

Gentlemen, why do Men avoid the light and put themselves under covert, unless they have some evil design ? Persons that are innocent seek not obscurity.

The Seals were found there, and my Lord does not deny they were his Seals.

Lord *Preston*. I do not deny that, I hope it is no Crime to have such Seals.

L. C. J. *Holt*. Ay, but says my Lord, that does not affect ——— because the Papers were not found about me, but were found about *Ashton*. Gentlemen, if you can imagine my Lord *Preston* had a different Design from the rest of the Company that were with him, then you may acquit my Lord, and find him Not Guilty. But it is left to you to consider whether he had not the same Design with them. Besides there's mention made in one of the Letters, *My Lord*, and there was no other Lord but he ; and here are Papers proved to be my Lord's own hand, containing several of the matters of which he stands Indicted, and he would have had the Captain to have disposed of the Papers.

Now, Gentlemen, what account does my Lord give you where he was going ? it seems they did pretend at the time they were taken, and they would have had the Master of the Vessel said, that their design was for *Flanders* ; but the Witnesses tell you positively, That the Vessel was hired for *France*.

Truly, Gentlemen, I must leave the matter to your Consideration whether my Lord be Guilty of this Design or Not Guilty.

There is another thing that my Lord has urged (for I would not willingly omit any thing material on the one side or the other) he says his Indictment is laid in the County of *Middlesex*, but the Papers were not taken there, the Ship they went on board lay at Anchor in *Surrey*, and when they were taken it was in the County of *Kent*, and so there is no Proof of Treason in *Middlesex*.

Ay,

Ay, but Gentlemen, give me leave to tell you, if you are satisfied upon this Evidence, that my Lord was privy to this Design, contained in these Papers, and was going with them into *France*, there to excite an Invasion of this Kingdom, to Depose the King and Queen, and make use of the Papers to that end, then every step he took, in order to it, is High Treason, where-ever he went; his taking Water at *Surry-Stairs*, in the County of *Middlesex*, will be as much High-Treason, as the going a Ship-board in *Surrey*, or being found on Ship-board in *Kent*, where the Papers were taken.

Gentlemen, I have failed of recollecting several of the Particulars of the Evidence, because they are many; and you will not depend upon my Recollection of things so very incoherent as some Parts of the Evidence in the Papers are, but upon your own Notes and Observations.

If you do think, having heard this Evidence, That my Lord was not concerned in this Matter, That my Lord had no Design to go into *France* with these Papers, but that he was an utter Stranger to all these things, then you are to acquit my Lord. But if you believe my Lord was privy to, and knew of the hiring of this Vessel, and that he went to carry on the Design, contained in these Papers; and that he wrote some of these Papers, and with the others, he was acquainted, then you are to find him guilty.

L. C. J. Pollexfen. My Lord, if you please, I would observe one thing, to the Jury.

L. C. J. Holt. Ay, by all Means my Lord.

L. C. J. Pollexfen. Gentlemen of the Jury, I shall say but a few Words to you, because indeed my Lord has summ'd up the Evidence very fully, for matter of Law: I am fully of Opinion there never was a more Black nor Horrible Treason than is in this Plot that is now discovered; for I think Englishmen have no greater Enemies than the French and the Papists, and you see this is a Plot to bring in both; and therefore I think there was never any thing of greater Consequence to the Government and the Nation than to have this Plot detected and punished; tho' perhaps never any thing was more improbable than this same Plot, that it should ever take effect, whatsoever they promised to themselves, and their Desire of having it effected might perswade them to the contrary.

But, Gentlemen, the thing that I would mention about the Matter before you now, is this; Here are three Papers that by three several Witnesses, acquainted with my Lords Hand-writing, are testified, as they believe to be his Hand-writing; if so, then there is an End of all, for therein is a horrid deal of Treason contained. If these Instructions, these Memorandums, these Heads that were written down were my Lords, and he did intend to go with these in a Voyage towards *France*, that will be sufficient of it self, if there were nothing else in the Case, to maintain this Indictment.

But, Gentlemen, you have in the rest of the Papers, that were taken, a great Character of the Bearer; that the Bearer had done great things; that the Bearer could inform them fully of every thing; and there should be full and intire Confidence put in the Bearer, and a great many such Phrases.

But, says my Lord, I was not the Bearer, it was Mr. *Albton* that the Papers were found about; it does not appear directly who the Bearer was; and they were not found about me.

Now, Gentlemen, pray let us look a little how this Evidence stands: Pray where was this Bundle found? even upon the Gravel, where my Lord *Preston* and Mr. *Ashton* lay; there was it found, and my Lord's own Seal with it.

How, in the Name of God, came my Lord's Seals to be found with other Peoples Papers, if they did belong to any body else? How came they together in that place? It may be he had a mind to leave his Seals behind him, because they would discover his Quality. But why should my Lord *Preston* have all this fear upon him? Why should two Men go and take a Ship for themselves and two others; and when they come to take Boat, take in my Lord and his Man, if they were not the two others that were designed? and this to be done at Night in the Dark? Why should my Lord be under such terrible Apprehensions as to creep into a hole so unfit for one of his Quality?

Why do you not hear from my Lord some good Account upon what occasion my Lord and his Man were going to *France*? Or whether else my Lord was really going? for somewhere or other it was plain he was going.

Gentlemen, no Man goes into an Enemies Country without some Licence, unless he go upon some ill Design: Fear seldom is without some Guilt; and there appears, throughout the whole management of the Story, that there was a great deal of Fear upon these Gentlemen.

Besides afterwards, when he is taken, and the Letters taken with him in the same Company, you hear what endeavours there were to suppress the Truth, even by my Lord's desiring, to have the Pacquet disposed of; and my Lords Man gave one of the Seamen half a Crown to say they were going to *Flanders*, not to *France*. I suppose the Man knew how unfit it was to be known that they were going to *France*: And my Lords two Companions spared for no Pains to get the Pacquet thrown over-board; tho' all that my Lord said was what great kindness he would do him when it lay in his Power, if he would dispose of the Pacquet; I suppose that is very easily intelligible.

Gentlemen, there is one thing which is mentioned in one of the particular Letters that I desire particularly to observe to you, and that is all I shall say to you; Here is a Letter in my hand that in divers places has somewhat remarkable, it says, *Your Daughter and I must starve, if this Government can make us: That the Party did not repine at all for having lost all for your sake, which your favour had bestowed.* And in another place this Letter doth say, *Your Daughter grows very tall, and very pretty, as I am told.* But that which I chiefly mention it for, is, it's twice mentioned, *My Lord will tell you all my Condition, how I have been used; and I have told my Lord my Condition: what I desire of you, he thinks very Moderate.*

And pray consider and remember, that the first Article of my Lord's Paper, that is taken to be under my Lord's own Hand, there is two thousand pound to the Lady *D.*

Now if any body should put these together, do they lack any great Interpreter for? for my part I leave them to you.

Then in another place, towards the end of the Letter, it is said, *Pray, Sir, ask my Lord how I have been used.*

Now this Letter being thus taken, and there is never a one of the rest that was a Lord, do you think any of the rest was meant? I must leave it to you.

If my Lord *Preston* had produced any Testimony to prove his own good Carriage and Behaviour towards the present Government, it had been very much for his advantage, and might have had great weight with you; but

but when things appear only in this manner as they do now, I must leave it to you.

Gentlemen, 'tis a Great Matter, and of great Moment; if those that Conspire against the Kingdom, against the Protestant Religion, and against the present Government, may do it with impunity, it will be worth the considering what the Consequence of that may be. Your own Consciences require you to do Right and Justice on both sides; and if you are satisfied he is Not Guilty, you will find him so; if you are satisfied that he is Guilty, you will find him so.

L. Preston. My Lord, may I have the liberty to say any thing before the Jury go out?

L. C. J. Holt. You Lordship should have said what you had to say before. It is contrary to the course of all proceedings in such cases to have any thing said to the Jury after the Court has summed up the Evidence, but we will dispence with it. What has your Lordship to say?

Lord Preston. My Lord, I humbly thank your Lordship; I am not acquainted with such Proceedings.

L. C. J. Holt. My Lord, you know I permitted your Lordship to interrupt me as much as you wou'd, which was never done before in any such Case.

L. C. J. Pollexfen. It is contrary to the course of the Court: But yet if you have any thing to say to the Court or the Jury, for this once we permit it.

Lord Preston. Gentlemen, of the Jury. —

L. C. J. Holt. My Lord, what you have to say pray direct your self to the Court that we may hear what it is.

Lord Preston. My Lord, I only desire the Jury may be informed that I am a Protestant, that I was baptized in the Religion of the Church of *England*, and have always lived in it, and hoped to dye in it. My Lord, 'tis true, things have been urged with Severity against me that are a little hard in making, that which I hope will amount to but a Presumption, to be a Proof; as in the case of the Letters that are written in a Cant, and my Intention to go to *France*, and those words in the Letter, where my Lord the Bearer is named. But your Lordship observes, That that Letter is not directed to any body, and that is full of Cant as well as all the rest; Why should I be supposed to be the Bearer any more than either of the others, and they were found about one of them? But, my Lord, for the reason of my going beyond Sea, it was this; I designed to go to *Flanders* or any place I could be driven to, and that ought not to be wondred at; for really I who had lived quietly after the loss of my Places, upon this Revolution, and suffered great Inconveniences in my Estate, and was retired to my own House, with a Design to live a retired life, was imprisoned twice in the *Tower*, and proclaimed a Traytor in every Market Town, without any Indictment; and my Imprisonment tended greatly to the impairing my Health and my Fortune; all this made me very uneasie here: and, my Lord, I went under a fixed Resolution to go to *Flanders* or any place where I thought I could be quiet.

L. C. J. Holt. My Lord, your Lordship should have said all these things before, for it is not the course to reply upon the Court; if you had had any thing to say, you know we heard you out of Course, and I let you interrupt me as much as you did think fit, though that has not been allowed at any time before. But, my Lord, pray let me say one thing more: Suppose your Lordship did think your self hardly used, though I know not any reason

reason you had to think so ; yet your Lordship must remember it was in a time of Danger that your Lordship was taken up before, and you had shewed your dissatisfaction with the present Government, and therefore they were not to be blamed if they secured themselves against you ; but if you had a mind to retire into the Country, or to go abroad, was *France* the only Country you could choose ? a known declared Enemy's Country at open War with the Government ?

Lord *Preston*. My Lord, I beg your Lordships pardon, if I give any Offence.

L. C. J. *Holt*. No, my Lord, you give me no offence at all ; but your Lordship is not right in the course of Proceedings ; I acquaint you with it not by way of Reproof, but by way of Information.

Lord *Preston*. Then I hope the Gentlemen of the Jury will consider, that all that is alledged against me is but Presumption ; my Life and Fortune, my Posterity and Reputation, are all at stake ; I leave all to the Jury's Consideration, and the God of Heaven direct them.

L. C. J. *Holt*. If you go on thus to Reflect upon the Court, you will make the Court to reflect upon you. The Jury hear how the Evidence has been stated : I think it has been done very impartially, and without any severity to you : Why should you think we would press the Evidence further than it ought to go against you ? You are a Stranger to most of us, and I am sure we do not desire your Life ; but still we must take care that Justice be done to the Government and the Kingdom, as well as to any particular Person ; and Evidence that is given must have its due weight and Consideration : If any one can design Innocently to go into *France*, at this time of day, with such Papers, and in such a manner, that I leave to the Jury's Consideration.

Then the Jury withdrew, to consider of the Evidence, and the Court Adjourned for a little while, and returned in half an hour ; and the Jury came in and were called over, and appeared.

Cl. of Ar. Are you all agreed of your Verdict ?

Jury. Yes.

Cl. of Ar. Who shall say for you ?

Jury. Our Fore-man.

Cl. of Ar. Sir *Richard Graham*, hold up your Hand, (which he did) Look upon the Prisoner. How say you ? Is he Guilty of the Felony and High-Treason whereof he stands Indicted, or not Guilty ?

Fore-man. Guilty.

Cl. of Ar. What Goods and Chattels had he ?

Fore man. None at all that we know of.

Then the Verdict was Recorded.

L. C. J. *Pollexfen*. I think, truly, Gentlemen, you have done according to your Evidence ; and though it be a hard Case upon particular Men that have brought themselves in to these inconveniences ; yet it is necessary Justice should have its due course, or else there is no longer living for any Man in any Society or Government.

Then the Prisoner was carried back to Newgate, and the Court Adjourned till Munday Morning following at seven a Clock.

THE
ARRAIGNMENT,
TRYAL, CONVICTION,
AND
CONDEMNATION
OF
John Ashton, Gent.
FOR
HIGH-TREASON

Against their MAJESTIES
King WILLIAM and Queen MARY,
In Conspiring the
DEATH and DEPOSITION
OF
Their MAJESTIES, &c.

L O N D O N.

Printed for Samuel Heyrick and Thomas Cockeril, at
Grays-Inn-gate in Holbourn, and at the Three Legs in the
Poultry. M. DC. XCI.

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Parish of St. Martin, M.D.C.XC.

Die Luna, xix Januarii, 1690.

The Court being Sate, the Jury was called over, and the appearance of those who answered Recorded, Then Mr. Ashton and Mr. Ellyot were brought to the Bar; but Mr. Ellyot was ordered to be carried back to Newgate, the King's Council resolving to try Mr. Ashton by himself.

Cl. of Ar. **J**OHN ASHTON, hold up thy Hand. *[Which he did.]*
Those Men that you shall hear called, and personally appear, are to pass between our Sovereign Lord and Lady our King and Queen, and you upon your Tryal of your Life and Death. If therefore you will challenge them, or any of them, your time is to speak as they come to the Book to be Sworn, and before they be Sworn.

Mr. Ashton. Pray stay a little.

L. C. J. Holt. What say you, Mr. Ashton?

Mr. Asht. My Lord, I humbly desire your Lordship will allow me the benefit of Pen, Ink, and Paper.

L. C. J. H. Pray let him have Pen, Ink, and Paper.

Mr. Asht. And likewise that you would give my Solicitor leave to be as near me as possibly he can, only to refresh my Memory, if I should forget any thing.

L. C. J. H. That is a thing you cannot of right demand, the other of Pen, Ink, and Paper you may.

Mr. Asht. My Lord, I shall acknowledge it as a very great Favour.

L. C. J. H. That is an Innovation that ought not to be, the Court cannot allow it.

Mr. Asht. I acknowledge it a Favour, but if the Court thinks it not fit to allow it, whatsoever your Lordship shall order I readily submit to.

L. C. J. H. You shall have Pen, Ink, and Paper; and what is fit for the Court to do they will do it.

L. Ch. Bar. If the Witnesses say any thing that you do not hear, you must speak to the Court, and you shall have them say it over again.

Pen, Ink, and Paper was given to the Prisoner.

Cl. of Arraign. Sir William Hedges, Knight. *He appeared.*

Mr. Asht. My Lord, I would not trouble your Lordship and my self with unnecessary Challenges; I intend to put my self with an intire dependance upon the first Twelve Men that appear, be they who they will.

L. C. J. H. What you please for that matter, you have your own choice.

Mr. Asht. Whoever they are, I submit to them; I know them not.

Cl. of Arr. Swear Sir William Hedges.

Which was done. And so were the Eleven next succeeding in the Pannel; and the Names of the Twelve Sworn follow.

Sir William Hedges, Knight.

John Wolstenholme, Esq;

James Boddington, Esq;

Thomas Johnson, Esq;

Ralph Bucknall, Esq;

Lucy Knightley, Esq;

Thomas Cuthbert, Esq;

John Herbert, Esq;

John Tully, Esq;

Thomas Smith, Esq;

William Withers, Esq; and

Daniel Thomas, Esq;

Jur.

Then the Jury were Numbered, and Proclamation made for Information and Evidence in the usual manner.

Mr. Asht. Gentlemen of the Jury, if you desire Pen, Ink, and Paper, I hope the Court will take care to provide them for you.

L. C. Just. Holt. Ay, ay, let the Gentlemen of the Jury have Pen, Ink, and Paper.

Cl. of Arr. John Ashton, hold up thy Hand. *Which was done.*
 Gentlemen, you that are sworn, look upon the Prisoner, and hearken to his Cause: He stands Indicted by the Name of *John Ashton*, late of the Parish of *St. Pauls Covent-Garden*, in the County of *Middlesex*, Gent. For that he, together with *Sir Richard Grahme*, late of the Parish of *St. Anne*, in the Liberty of *Westminster*, Barronet, who stands Convicted of High Treason, and *Edmund Ellyot*, late of the Parish of *St. James*, in the said Liberty, Gent. For that they as false Traytors, &c. (*Prout in the Indictment, mutatis mutandis*;) and against the Form of the Statute in that Case made and provided. Upon this Indictment he has been Arraigned, and thereunto hath Pleaded Not Guilty, and for his Tryal hath put himself upon God and the Country, which Country you are; your Charge is, to enquire whether he be Guilty of the Felony and High Treason whereof he stands Indicted, or not Guilty; If you find him Guilty, you are to enquire, what Goods or Chattels, Lands or Tenements he had at the time of the Felony and High Treason Committed, or at any time since; If you find him Not Guilty, you are to enquire whether he fled for it; If you find that he fled for it, you are to enquire of his Goods and Chattels, as if you had found him Guilty; If you find him not Guilty, nor that he did fly for it; you are to say so, and no more, and hear your Evidence.

Mr. Knap. May it please your Lordship, and you Gentlemen of the Jury; This is an Indictment of High Treason against *John Ashton*, the Prisoner at the Bar, and the Indictment, Gentlemen, Charges him, That he, as a false Traytor against their present Majesties King *William* and Queen *Mary*, his Supreme and Natural Lord and Lady, not weighing the Duty of his Allegiance, did upon the Twenty Ninth of *December* last past, together with *Sir Richard Grahme*, who stands Convicted, and one *Edmund Ellyot*, and divers others ill disposed Persons unknown to the Jury, did Conspire, Imagine, and Intend to depose, and deprive the King and Queen, and to bring them to Death and Destruction, and to subvert and alter the Government; and to cause War and Rebellion within this Kingdom against their Majesties; and to bring these Intentions and Purposes to pass, the Prisoner, with the rest of them, did prepare diver Notes, Papers, Letters, and Memorandums in Writing, which were to instruct the *French* King, and other Enemies of the King and Queen, of the number of their Majesties Men of War, how they were Mann'd, and the Names of the Commanders of several of them, and to inform them how the Castles and Forts of *Portsmouth*, *Southsea*, and *Gosport* were fortified, and how they might be surpris'd by the King's Enemies, and of the Times, Wayes and Means how they might invade the Kingdom, in order to depose the King and Queen; and to Procure and Incite such an Invasion, and further to bring these Purposes to pass, the Prisoner and the other Traytors did secretly conceal, and detain in their custody several Bills of Exchange for the payment of Money to the King's Enemies, and the several Letters, Notes, and Memorandums before mentioned, which were for the purposes I before opened to you; and further to bring these Purposes, and Treasonable Intentions to pass, they did for one Hundred Pound hire and prepare a Ship, which was to carry them secretly out of this Kingdom into *France*, with an intent there to deliver these Instructions, and Memorandums, and Bills of Exchange into the Hands of their Majesties Enemies; and did hire a Boat to carry them to the Ship, and did enter into it at *St. Clements Danes*, within your County, and

and rowed to the Ship, and went on Board the Ship, and there with the Bills of Exchange, Notes, and Memorandums, they set sail to go to *France*, in order to deliver them to the *French King*, and other Enemies of the King and Queen; and the Indictment does further set forth, that there hath, and still is a War between the *French King* and our King and Queen; and that he and his Subjects are Enemies to the King and Queen and their Subjects; and that during this War, the Prisoner, together with the rest that were before named, were adhering to the King and Queen's Enemies in this War; and in pursuance thereof, did prepare such Letters and Instructions before opened, and had, and concealed in their custody, and hired a Ship and a Boat, and went into the Ship, and set sail in order to go for *France*, to aid and assist the King's Enemies there with Money, Intelligence, and Counsel; and this is laid to be against the Duty of his Allegiance, against the Peace of the King and Queen, their Crown and Dignity, and against the form of the Statute in that case made and provided. To this he hath pleaded Not Guilty; if we prove him Guilty, you are to find him Guilty.

Mr. Serj. Thomps. May it please your Lordship, and you Gentlemen of the Jury, The Prisoner at the Bar stands Indicted of a very heinous Offence; no less than High-Treason, the greatest Offence that can be committed against any Humane Law. You have heard the Particulars in the Indictment read. I will not trouble you with any Repetition, but go to open the Evidence according to the Steps that are obvious in the case. You have heard in general the Design was to depose this King and Queen, which the Law expounds to be to bring them to Death and Destruction. You have heard it was to alter the Government, and cause a Rebellion in the Kingdom, and to bring in Foreign Power; and these are laid to be the Heads of the Offences that the Prisoner stands charged with.

Gentlemen, the first step that was made in this matter was by the Prisoner at the Bar; for there was one Mr. *Burdett*, which it seems had been one of his Acquaintance, and had undertaken to bring him acquainted with a Person that could furnish him with a Ship; and in order to that, one Mrs. *Pratt*, that had the management of the Smack which belonged to her husband, she, by *Burdett's* means was brought to *Burdett's* House, where met Mr. *Ashton*, the Prisoner at the Bar, and they had some Treaties about the hiring of a Ship; the purpose declared by the Prisoner then was to hire a Ship to go to any part of *France*, and he would give a considerable Reward for it; he said it was for himself and Three more. They did not come to any conclusion about hiring the Ship then; but there was an Appointment made to have the Master of the Ship to meet with them at the *Worster Tavern* in *Ludgate-street*, and in order to that, *Poseley* that is the Master, and the Woman came there, and met with Mr. *Ashton*; but because Mr. *Burdett* was not there, they came only to this proposal, one Hundred and Fifty Pound was demanded for the Hire of this Vessel; but there being no conclusion then made, they thought it better to do it at *Burdett's* House; and about a day after they came to Mr. *Burdett's*, and then it hapned that *Ellyat*, one of the Persons that is Indicted, but not one before you, came thither too; and at that time it was agreed to give one Hundred Pound for the Hire of the Ship. Ninety Three Guineys were deposited in Mrs. *Burdett's* Hands; and there was a Token past betwixt them by the breaking of a Sixpence, one part whereof was to lye with Mr. *Ashton*, and the other with Mrs. *Burdett*; and whenever the Master of the Vessel brought back the broken piece of Sixpence that Mr. *Ashton* had, then was she to pay the Money, that being the sign that they had attained their Ends, and were safely landed in *France*.

The next step they take, is this, They appoint to meet at the *Seven Stars*

in *Covent-Garden*; thither the Master of the Vessel and the Woman were to come, and that was near the time, that very day that they designed to go down, and there was Mr. *Ashton*, and Mr. *Ellyot*, but the other Person did not appear as yet; there the Sea-men were Ordered to go along with them, and thence they went down to the Water side, to *Surrey Stairs*, and the Waterman was called, and in the mean time came my Lord *Preston* and his Man to them, and they four did go in that Boat, by the Direction of the Master, and were carryed on Board his Smack.

After they came on Board (for I would note the particular Circumstances) they were very apprehensive of Danger, for they knew what they went about, their own Guilt gave them Reason of Fear, and when they came near a Man of War, which lay at Anchor in *Long-Reach* in the River, they desired the Master to hide them, that they might be safe from any Search, and they were hid and put close under the Hatches for some time; afterwards when they came to another place of Danger, it was by the *Block-Houses* at *Graves-end*, (as they apprehended) there they desired to be hid again, and so they were put in that place where they were in very difficult Circumstances under the Hatches, and there they remained till a Pinnace, that had been sent to enquire after them, came and Boarded this same Vessel.

Upon its Boarding of them, the Captain made a search, and found these Gentlemen, My Lord *Preston*, Mr. *Ashton*, and Mr. *Ellyot*, and I suppose his Man also, all hid under the Hatches.

Then the next thing which is observable, Gentlemen, and the Great Matter that will shew where the Treason was, is this, there was a Bundle of Papers that was on Board, ready prepared, if they had not been surprized, but could have had an Opportunity for it, to have been cast Over-Board, and there was Lead fixt to it, to have sunk it, and Mr. *Ashton* the Prisoner at the Bar was the Person that concealed this Bundle of Papers, betwixt his Body and his Coat, and from thence it was taken by the Captain that took them.

When they were so taken, the Captain, according to his Duty, was bringing the Prisoners to *Whitehall*, they desired to go on Shore at *Graves-End*, but the Captain did not think that so fit, but carryed them on Board the *George Frigot*, and then you will hear these Gentlemen did fall into a Treaty with the Captain, to suppress these Papers, and one Instance I remember they did tell him, that since there were a parcel of Papers that he had taken out of my Lord *Preston*'s Pocket, he might take off the Lead and fix it to those Papers, and sink the others; and what should he have for it? they promised him great Rewards, they told him he might be a Great Man, he had an Opportunity of making his Fortune; and when that would not do, they used many Threatnings to him, all which will appear in the several Circumstances that the Witnesses will tell you of.

I come, Gentlemen, in the last place to shew you, That all the whole Conspiracy, all this Treason, did lye hid under this Bundle of Papers that were taken from Mr. *Ashton*, and so he might very well be afraid of having them opened, for there you will find a formed Design, to alter this Government by a *French* Power and Assistance; and they contain so many Particulars, that in regard, I would not do the King's Evidence injury on the one hand, nor the Prisoner on the other, I will forbear repeating the Particular Instances.

Gentlemen, You will have all the Letters and Papers Read, but in the General, I must needs say, you will find it manifest, that there is a black and wicked Conspiracy to introduce a Foreign Power, to Establish the Protestant Religion, and that by a Popish Interest, and to settle our Laws, Liberties, and Properties, by a *French* Army. And let them pretend what they will for the *Protestant Religion*, when you hear these Papers read, no body will ima-

gine it was to any other purpose, (if the Plot had taken Effect,) but to have what Religion, what Laws, the *French* King had pleased to impose upon us.

If the Prisoner be Guilty, Gentlemen, of these Matters, I know you will do your Duty; but if he be not Guilty, God forbid that you should find him Guilty.

LEON J. HOLZ: Call your Witnesses, Brother.

Mr. Serj. Thompson. We begin with *Mrs. Pratt.*

Sir W. Wil. Look you, Mrs. Pratt, here is now another Gentlemen at the Bar to be Tryed, against whom you are called as a Witness.

Mrs. Pratt. Yes, my Lord

Sir W. Wil. Pray hear what we ask you. Pray do you give the Court and the Jury an account, what Treaty you have had with that Gentleman, about a Vessel to go to France, and what was done in it.

Mrs. Prata. If it please you, my Lord, I was sent for to Mr. *Burdett's* House in *Queen-street* by *Cheap-side*, to know whether he could have a *Smack* to go for *France*; I told him yes, I could help him to one; he told me, there were two or three Gentlemen bound for *France*, as Merchants to fetch *Silk*, and I was at Mr. *Burdett's* two or three times, and at last Mr. *Ashton* met me there.

L. Ch. J. Holt Look upon the Gentleman, is that he?

Mrs. Pratt. Yes, that is the Gentleman, and he met me there, and meeting with Mr. Ashton, he hired the Vessel; but first of all, he desired us to meet at the Dog-Tavern upon Ludgate-Hill, to make the Bargain, and we did meet there, and were there about an hour, or an hour and a half, and Mr. Burdett did not come; and the next Morning, Mr. Ashton desired me to meet him at Mr. Burdett's again; and the next Morning I met at Mr. Burdett's, and there we made the Bargain for 100 l. and there was Sixpence broke in two pieces.

Mr. Serj. Tremain. Was the Hundred Pound paid,

Mrs Pratt: Yes, but we agreed on the *Tuesday* Morning, and there was a Sixpence broken in two, and *Mr. Ash* had both the Six-pences in his hand, and the *Tuesday* night the Hundred Pound was paid at *Mrs. Bartlett's*.

Mr. Sol. Gen. : Who was by

Mrs. Pratt. There was one Mr. *Ellyot*, and the Master of the *Smack*, and **Mrs. Burdett.**

Mr. Serj. Tremain. Did they pay the Money in Gold or Silver

Mrs. Pratt. This Gentleman, Mr. Ashton, told the Money, there was 93 Guineys and a Sixpence, and Mr. Ashton gave one half of the broken Sixpence with the 93 Guineys to Mrs. Bardett; and when the Master of the Vessel brought the other half of the Sixpence, or I, either of us, we were to have the 100.

Sir W. Wil. Pray to what Place did they hire the Ship to go?

Mrs. Pratt. To France.

Sir M.W. Who hired the Ship

Sir W.W. Who paid the Money?

Mrs. Pratt: That Gentleman, Mr. Ashton.

S. W. Wil. To what hand was the Money paid

Mrs. Pratt. It was paid in Mrs. Buxton's Bed-Chamber, into her Hand

S.W.W. Who broke the Sixpence

Mrs. Pratt. Mr. Ashton, that day the Bargain was made.

S.W. Wil. Who carried it away.

Mr. Pratt: When the Money was paid, Mr. ~~Alford~~ had one; Mrs. Burdett had the other part.

Mr. Serj. Tremain. To which part of France were you hired to go

Mrs. Pratt. To any part where they could touch.

Mr. Serj.

Mr. Serj. Tremain. Pray did they give you any Note about any thing?

Mrs. Pratt. Yes, they gave me one Note to meet at the *Dog-Tavern*, and another to meet at the *Seven Stars* in *Covent Garden*.

Mr. Serj. Tremain. Who gave you the Notes?

Mrs. Pratt. Mr. *Ashton* and Mr. *Ellyot*.

Mr. Serj. Tremain. Look upon that Note. *Which she did.*

Mrs. Pratt. This to my best remembrance Mr. *Ashton* wrote, I cannot well remember the Hand.

Mr. Serj. Tremain. Did Mr. *Ashton* desire to meet at the *Dog-Tavern*?

Mrs. Pratt. Yes, and he did meet at the *Dog-Tavern*, but *Burdett* did not.

L.C.J. Holt. When did you meet at the *Dog-Tavern*?

Mrs. Pratt. On the *Monday Night* before *New-Years-Day*.

L.C.J. Holt. When was the Money paid?

Mrs. Pratt. On *Tuesday Night*, at Mrs. *Burdett's*.

Mr. Serj. Tremain. After the Money was paid, what did you do the next day?

Mrs. Pratt. Mr. *Ashton* Ordered a Note to be written, to meet at the *Seven Stars* in *Covent-Garden*, at one Mr. *Rigby's*.

L.C.J. Holt. At what time were you to go to *Rigby's*?

Mrs. Pratt. A *Wednesday Night*.

L.C.J. Holt. But at what time?

Mrs. Pratt. Some time about *Ten a Clock*, and we came there accordingly.

Mr. Sol. Gen. Who was with you at *Rigby's*?

Mrs. Pratt. There was the Master of the Vessel, Mr. *Ashton*, and Mr. *Ellyot*, and two Gentlemen more, that I never saw before, nor since.

Sir W.W. I ask you again, who first Treated with you about Hiring this Vessel?

Mrs. Pratt. Mr. *Burdett* first Treated with me about it.

Sir W.W. Who next?

Mrs. Pratt. Mr. *Ashton*.

Sir W.W. Who made the Bargain with you?

Mrs. Pratt. Mr. *Ashton*.

Sir W.W. Who paid the Money?

Mrs. Pratt. Mr. *Ashton*.

Sir W.W. What can you say more?

Mr. Serj. Tremain. Pray let me ask you, when you came to Mr. *Rigby's*, in what manner did you go away from his House, and what was said at parting?

Mrs. Pratt. Mr. *Ashton* was not there himself at first, but he and Mr. *Ellyot*, and two other Gentlemen were there afterwards, and Mr. *Ashton's* Wife said something about Papers hove in a Hat at Court, and about some bottles being chosen; and one of the Gentlemen said there was nothing in that, I was one that was Chosen last Year.

Mr. Serj. Tremain. Did *Ashton* and *Ellyot* go out together from Mr. *Rigby's*?

Mrs. Pratt. I did not see them go.

Mr. Trevor. Had you any directions from Mr. *Ashton*, to send for a Hamper or a Trunk?

Mrs. Pratt. Yes, that was at Mr. *Burdett's* House.

Mr. Trevor. When was that Hamper and Trunk to be sent for?

Mrs. Pratt. On the *Wednesday Night* before we went to *Rigby's* House.

Sir W.W. Do you know one *William Pafley*?

Mrs. Pratt. Yes, he was with them.

Sir W.W. Was he with them?

Mrs. Pratt. Yes, he was with them.

Sir W.W. What occasion brought him thither?

Mrs. Pratt. I carried him to Mr. *Burdett's* House.

Mr. Trevor. Pray did the Prisoner desire to see the Master of the Vessel, or speak with him?

Mrs. Pratt. Yes, and when I brought him, he said he liked him very well.

Mr. Trevor. What is the Master's Name?

Mrs. Pratt. *William Pafley*.

Mr. Serj. Tremain. Had you any Discourse with Mr. *Ashton's* Wife after they went away?

Mrs. Pratt.

Mrs. Pratt. We had little discourse, onely she gave me some Victuals and Drink; and she said she hop'd I would not tell of her Husband.

Mr. Serj. Tremain. What else did she say?

Mrs. Pratt. She hoped God would deliver them out of the Lyon's Mouth.

Mr. Serj. Tremain. Did she say any thing about Cock Crowing.

Mrs. Pratt. Yes, she said she thought she should have no good Luck for the Cock crowed.

Mr. Serj. Tremain. Who was by in the Chamber when the Money was paid?

Mrs. Pratt. There was the Master of the Vessel by, and *Mrs. Burdett.*

Juryman. My Lord, I heard her say somewhat of some Papers, which I do not very well understand. Does she know of any Papers that the Prisoner had?

Mr. Serj. Tremain. That was only about the Two Notes.

L. Ch. Just. Holt. She talks of Papers being shaken in a Hat, but nothing can be made of it.

L. C. J. Pollexfen. If you would ask her any Questions before she goes, now is your time to doe it.

Mr. Ashton. My Lord, I desire she may stand up again. *Mrs.* I ask you a Question, not so much in kindness to my self, as Justice to another Gentleman. You say *Mr. Ellyot* writ one of the Notes.

Mrs. Pratt. Yes, as I remember, it was that to meet at *Mr. Rigby's.*

Mr. Ashton. I doe it to justifie that Gentleman, I take that Note upon my self; and you say I hired the Ship, and *Mr. Ellyot* was by.

L. Ch. Just. Holt. Look you, *Mr. Ashton*, *Mr. Ellyot* is not now upon his Tryal, it concerns you only to ask such Questions as relate to your self. What is said now concerning *Mr. Ellyot*, goes for nothing against him.

Mr. Ashton. My Lord, I doe it only to doe him Justice.

L. Ch. Just. Holt. But you are to ask Questions only for your self.

Mr. Ashton. Remember, good Woman, you are upon your Oath; and have a care of forswearing your self; my Bloud is at stake.

Mrs. Pratt. I am sure I say nothing but the Truth.

Mr. Ashton. Did I ever speak to you of going to *France.*

Mrs. Pratt. Yes, you did.

Mr. Ashton. As I hope for Salvation I did not.

Mrs. Pratt. And another thing you told me more; if I help'd this well away, you would help me to the earning of a 1000 l. before Lady-day.

Mr. Ashton. Gentlemen, as to what was said of that kind, of helping her to a 1000 l. is no great matter to the thing in Hand; for if I was minded to go out of the Kingdom, it was necessary to use all Arguments I could, to persuade her to help me to go away.

L. Ch. Just. Holt. *Mr. Ashton*, you must stay your time before you speak to the Jury, make your Observations upon the Evidence to your self; you shall be heard at large all that you can say in your proper time.

Mr. Ashton. I do assure my self, my Lord, of all the favour that can be shewn to a Man in my Circumstances.

L. Ch. Just. Holt. You shall have all that is just, I do assure you.

Mr. Ashton. My Lord, I am glad in the Circumstances I am in, that I am to be tryed before your Lordship. But good Woman, by Virtue of the Oath that you have taken, did I ever speak to you directly or indirectly of going to *France*?

Mrs. Pratt. Yes, and you askt for a hole to hide what you might have occasion to keep secret.

Mr. Ashton. But I ask you about going to *France*; did I speak to you about going to *France*?

Mrs. Pratt. Yes, you did.

Mr. Ashton. Then, as I hope to be sav'd, I never spoke directly or indirectly of going to *France* to her.

Mrs. Pratt. You were not to go for *Holland* nor *Flanders*, I am sure.

Mr. Ashton. Nay, I did take it for granted, that you did know before I met you, that we were to go to *France*; but I never spoke to you of it in my Life, that I am sure of; but I only urge this to let your Lordship know, that Woman has forgotten her self.

L. Ch. Just. Pollixfen. *Mr. Ashton*, You will have all lawfull favour; but your time for arguing upon the Evidence is not come.

Mr. Serj. Thompson. You must ask your Questions now, and make your Observations afterwards; you must reserve your self for that, till after we have done.

Mr. Ashton. But then, my Lord, I shall have too many things for my Memory to retain; and therefore I beg leave, as they occur to my Memory now, and as the Witnesses go along, to make my Observations.

Mr. Ser. Tremain. *Mrs. Pratt*, Pray, when the Vessel was hired, and you were told it was to go to *France*, what Persons did *Mr. Ashton* say were to go with him?

Mrs. Pratt. Three Persons he said were to go, but he did not name them.

Mr. Serj. Tremain. Then set up *William Pafeley*. (Which was done.)

Sir W. Williams. What can you say of any for the hiring of a Vessel?

Pafeley. I did not know the Vessel was hired before I came thither.

Mr. Serj. Thompson. Prithce tell us what thou does know.

Pafeley. The Woman came to me when I was at *Billingsgate*, and said I must go a little way along with her; and as we were going she told me it was to go to *Mr. Burdett's* in *Queen-street*; and when we came there, *Ellyot* and *Ashton* were not within: But by that time we had been there a little while, in came *Mr. Ashton*, and presently after him *Mr. Ellyot*; and *Mr. Ashton* bid the Woman give him the Money out of the place where it was.

Juryman. My Lord, we do not hear him.

Sir W. Williams. Pray begin again, and speak out.

Pafeley. I met with this Woman at *Billingsgate*, and she told me I must go a little away along with her.

L. Ch. Just. Holt. That Woman, name her.

Pafeley. *Mrs. Pratt*; and I went along with her, and askt her where she was going; she said up into *Queen-street*: And coming to *Queen-street*, we went to *Mr. Burdett's* House, I was never there in my Life before. When I came there *Ashton* nor *Ellyot* were either of them there; after a little while in came *Ashton*, and presently after in came *Ellyot*, and he went up Stairs into the Bed-Chamber; and being in the Bed-Chamber, they brought the Money out, rolled up in a half sheet of Paper, set up an edge, and told it out at the Window.

L. Ch. Just. Holt. Who told it?

Pafeley. *Ashton* told the Money out; and after the Money was told, he pulled out two pieces of a Six-pence, and when he had pulled out the two pieces of Six-pence, he gives one half to this *Mrs. Burdett*, and the other half he kept himself; and he bid her pay this same Money, when the other half Six-pence that *Ashton* kept came to this Woman, to match that which she had; and after the Money was told, we stayed but a small while there, and came down Stairs; and when we came down Stairs, we went down to *Billingsgate*. I think *John Fisher* was there, and we carried away with us a Trunk and a Hamper; *John Fisher* carryed the Trunk, and another Man the Hamper; and after that we had carryed the things on Board, I came up to the House again; and after I came up to the House, they directed us to go to the Seven Stars in the little Piazza, there was a Note written to direct us, which ordered us to go thither betwixt 10 and 11 at Night. When we came there, I think there was neither of them there at present, but by that time we had been there a small space, in they both came, and sat down; and a Gentleman came in and said the Cock crowed; and therefore they should have no good luck. And then they talkt about Papers being tossed in a Hat, I dont know what, and in came two Gentlemen more, just before we went away, to

see them ; and after those Gentlemen had seen them, they staid but a little while. Says *Ellyot* to me, Master, come along with me; so I went along with him, and we came to *Surrey Stairs*; and on the Corner on the left hand, there was an Ale-house. He called the Waterman out of the Ale-house, and he bid me go before, and I went down; and by the time that I had gotten down, the Waterman came and halled his Wherry to, and I went in; and by that time I was gotten to the Stern, down came *Ashby* and *Ellyot*, and my Lord, and his Man.

L. C. Just. Holt. You mean *Ashton*, not *Ashby*?

Paseley. Yes, my Lord, that is the Man. And after they had got into the Wherry, and were seated, they bid the Waterman put off from Land, and so we went through Bridge; and after we were through Bridge, we got on board the Smack, and they got into the Cabin; and when they were got into the Cabin, I called my Men, and bid them hale up the Anchor, and they did so; it proved to be but little Wind, but that Tide we got below half-way Tree, and were forc'd there to drop our Anchor, and stay till the next Morning: the next Morning we weighed Anchor, and by that time it was Nine a Clock, we got to Long-Reach, where lay the *George Man of War*, and there they hid.

Mr. Soll. Gen. And how was the hiding, pray?

Mr. Paseley. It was down in the Quarters under the Hatches.

Mr. Soll. Gen. Why did they hide?

Paseley. We reckoned they would come on Board a Pressing, and they bid me shew my Protection.

Mr. Serj. Tremain. Did they desire to be hid?

Paseley. Yes, and after we came by the *George Man of War*, they came up again, and remained afterwards in the Cabin, till we came almost to *Gravesend*: a little before we came to *Gravesend*, they all hid again; and, when they were hid, remained hid all, I think, but only *Ellyot*; I think, he popt up; and they were resolved to go eat their Victuals; but then I told them, there was a Barge a coming, and so he went down again, and there they remained, till they were taken, for the Barge was on Board presently, and found them there.

Mr. Serj. Tremain. What kind of place was it, that they were hid in?

Paseley. They could not sit, nor stand upright in it, but lay all along, or lean'd on their Elbows.

L. C. Just. Holt. What did they lie upon there, pray?

Paseley. There was Ballast, and slit Deal a top of the Ballast.

Mr. Serj. Thompson. Well, what happened when the Captain came on board?

Paseley. When Captain *Billop* came on board, Master, says he, you have got a couple of stout young Men, I must press them, or to that effect. I hope not so Captain, said I. Why, what have you to shew, says he? I told him, I had a Protection. Let me see it, says he: So I shew him my Protection, and he looks in it. Well, says he, Master, I must look farther, and went to rights to the Place where they lay, and found them lying all together. After they were taken, and were come out, Captain *Billop* commanded them into his Boat, and commanded me, and my two Men, to go into the Barge; afterwards he set his Man on shoar at *Hungerford Stairs*; and when we came to *Whitehall Bridge*, the Gate was not opened, and we stayed a little while at *Whitehall Bridge*; and when we came a shoar, *Ellyot* gave me half a Crown, and bid me say, when I came upon my Examination, that we were bound for *Flanders*; and not for *France*.

Mr. Serj. Tremain. Where were you bound for, pray?

Paseley. They examined me in the Chamber, when they paid the Money, if I knew they went to *France*, and I told them, yes, very well.

M. S. Thompson. Did they desire you to go to any particular Port in *France*?

Paseley. No, we were to touch at any Place we could.

Sir W. Williams. Did they mention any thing of *Flanders* to you?

Paseley. No, they did not.

L. C. Just.

L. C. Just. Holt. Did any body mention going to *France* to you?

Paseley. Yes, they did. They askt me, whether I could carry them to *France* safe.

L. C. Just. Holt. Who did ask you that?

Paseley. *Ellyot* or *Ashton*, one of the two, I cannot directly say which; but if I be not mistaken, it was *Ashton*.

Mr. Serj. Tremain. When you came from *Rigby's* at the *Seven Stars*, Who came away with you?

Paseley. *Ashton* and *Ellyot*.

Mr. Serj. Tremain. Did *Ellyot* and *Ashton* both come out with you?

Paseley. Yes, they did.

Mr. Serj. Tremain. And did they part, after they were come out?

Paseley. Yes, *Ashton* did go away from us presently after we were come out.

Mr. Serj. Thompson. When you came on Board, had you any Discourse with *Ashton*, about going to *France*?

Paseley. No, not that I remember.

L. C. Just. Holt. Did you go on foot, from the *Seven Stars*?

Paseley. Yes.

L. C. Just. Holt. And did they part, after you came out?

Paseley. Yes, they did.

L. C. Just. Holt. And who went with you, did you say?

Paseley. *Ellyot* came with me.

L. C. Just. Holt. Whither went *Mr. Ashton* then?

Paseley. I cannot tell, my Lord.

Mr. Soll. Gen. What did he say to you, when he went from you?

Paseley. He bid me go along with *Ellyot*.

L. C. Just. Holt. Was *Mr. Ashton* there as soon as you?

Paseley. Not quite; but by that time the Waterman had got the Boat to the shore, and I in the Stern, they were all come down.

L. C. Just. Holt. When *Ashton* came, who came along with him?

Paseley. I saw them all upon the Stair-head; I was in the Boat when they came. I never saw my Lord, till he was upon the Stairs.

Juryman. My Lord, I desire to ask him, What the Summ of Money was, that was paid at *Burdett's*?

Paseley. It was 93 Guineas and six Pence.

L. C. Just. Holt. Who brought it?

Paseley. It was laid down in the Window.

L. C. Just. Holt. But I ask you, who brought it?

Paseley. I did see *Ashton* bring it, and lay it down in the Window, and he told it out, and put it up again, and gave it to *Mrs. Burdett*.

Juryman. My Lord, I desire to know, what is the usual Rate to go to *Flanders*; What may a Smack and three Men deserve?

Paseley. Truly I cannot tell, I never went upon my own account in my life.

L. C. Just. Holt. *Mrs. Pratt*, what say you, what is the usual Rate to go to *Flanders* or *Holland*?

Mrs. Pratt. I believe they may go for a matter of 20 l. or 30 l.

L. C. Just. Holt. You hear them, Gentlemen, what they say.

Juryman. Yes; but, my Lord, he says, he gave them notice the Barge was a coming. I desire to ask him. Did he know there was a design to search him or no?

Paseley. Sir, I knew that there was a search for Seamen.

L. C. Just. Holt. But did you know there was to be a search, in order to the taking these Gentlemen on board you? For that is the Question, I believe, the Jury would ask you.

Paseley. No, I did not know it.

Mr. Soll. Gen. But you say, these Gentlemen desired to be hid?

Paseley. Yes.

Mr.

Mr. Soll. Gen. And you hid them according to their desire ?

Pafeley. Yes.

Mr. Serj. Tremain. Before you went on Board, had you any discourse of hiding ? did they ask you for a place to hide in ?

Pafeley. Yes, they did.

Mr. Serj. Tremain. Who did ?

Pafeley. *Ashton* and *Ellyot* both askt if there were a place in the Ship to hide them, and I told them, yes, there was.

L. C. Just. Pollexfen. *Mr. Ashton*, will you ask him any Questions ?

Mr. Ashton. My Lord, I desire to ask him this Question. Did we desire you to come and hide us, or did you desire us to go down ?

Pafeley. You desired this of us, that if we saw any Man of War's Boat we would tell you, that you might be hid.

Mr. Serj. Tremain. Pray repeat that over again, did they desire you to give them Information when any Boat was coming, that they might hide, or did you desire them to hide your Self ?

Pafeley. They desired it of me.

Mr. Serj. Thompson. Then set up *Charles Betsworth*.

Mr. Ser. Tremain. Before *Betsworth* is examined, I would ask *Pafeley* one Question ? was there any Coat left on board you ?

Pafeley. Yes, there were two Coats of the Waterman's left on Board, and I took them and lockt them up.

Mr. Serj. Tremain. Is that the Man that owned the Coats ?

Pafeley. Yes, it is.

Sir Will. Williams. Then, *Betsworth*, will you give an Account of what you know against the Prisoner at the Bar ?

Betsworth. I cannot tell, my Lord, I never saw the Gentleman in my life before, that I know of.

Sir Will. Williams. Prethee hear, Friend, tell what you know of carrying any Gentlemen on Board the Smack.

Betsworth. If it please your Lordship, I was going home from our Stairs about 7 or 8 a Clock in the Evening ; that is, from *Surrey Stairs*, and a Gentleman called *Sculler*. Said I to him, Sir where do you go says he ? As far as the Tower, said I. 'Tis against Tide, I cannot go ; it will be ten a Clock before it be high Water. Says he, will you go with us at that time ? Said I, what will you give me ? Will you give me half a Crown ? then I'll carry you down, for I cannot stay out so late for nothing. Yes, says he, I will give it you. Then I came and brought my Boat to the Shoar ; he asked me then what my Name was ; I told him *Charles Betsworth*. Says he, will you be sure to stay till we come ? Yes, said I, if you will be sure to come ; and if I be not here, I will be at such a House, an Ale-house, that was there by ; the sign of the *Swan* : So I staid, and carryed a Fare or two over the Water, and about 11 a Clock comes a Gentleman down, and calls *Charles* ; and I went out a doors down towards my Boat, and there comes one Gentleman down, and a kind of a Seaman, as I thought ; and the Seaman went into the Stern, and the Gentleman sate at the Back-board, and there was three Gentlemen more came down the Stairs into the Boat ; one had a whitish Cloak, and the other a loose Coat ; and they brought a leather Bag that would hold about a Peck ; so I put off with them, and rowed down the River, and all that I heard them say, was when we came under the Temple ; says one of the Gentlemen, when do you hear the King goes away ? Says another of them, he goes away a *Tuesday* ; and when we got through Bridge, one of the Gentlemen askt where the Vessel lay, and the Man in the Stern said on *Southwark* side, over against the Tower, and when we came a little below *Battle-bridge* near *Pickle-Herring Stairs*, the Master said, there lies the Vessel.

fel, and it had a long Pendant and a top Sail loofe; fo they paid me before they came on Board, and when they were got a Board, away rowed I; and when I came to Land, and take out my Sculls and things, there I miff my Cloths; and I rowed after them, thinking they could not be got far; but when I came to the place where they went on Board, the Veffel was gone, and I rowed down as low as *Limehouse-Reach*, and in *Black-Hall-Reach* I overtook a Veffel, which I thought was the Veffel. I askt them who they belonged to, and they faid they came from *Horseliedown*, and I made answer I brought two Fares on Board a Veffel at *Pickle-Herring-Stairs*; and had forgot to take my Cloths that they had; they made answer, I brought no Fare on Board them, fo I rowed on farther beyond *Barkinsheff*, and becaufe there was no Wind, I thought none could have gone beyond that Place, and therefore refolved to row back again when it was Flood; and I rowed up to *Greenwich*, but could not meet with the Veffel; and I heard nothing of my Cloths, till laft *Friday* was Seaven-night I had my Cloths brought me.

Sir Will. Williams. Can you fay this Gentleman *Mr. Afhton*, the Prifoner at the Bar, was one of them that you carryed on Board the Smack?

Betfworth. No, I know never a one of them.

Mr. Serj. Tremain. But you fay the Perfons that you took in at *Surrey-Stairs* carryed away your Cloths with them? *Betfworth.* Yes, Sir.

Mr. Serj. Tremain. Then I ask you, *Pafeley*, Is that one of the Perfons that he brought on Board your Smack?

Pafeley. Yes, he was.

Mr. Serj. Tremain. How many came on Board the Smack?

Pafeley. Four; My Lord *Preston*, *Mr. Afhton*, *Mr. Ellyot*, and my Lord *Preston's* Man.

Mr. Serj. Tremain. Did you take in your Pendant?

Pafeley. Yes, I did.

Mr. Serj. Tremain. When did you take it in?

Pafeley. Asfoon as we weighed Anchor.

Mr. Serj. Tremain. How came you to take it in?

Pafeley. *Ellyot* spoke to me, to take it in?

L. C. Juft. Holt. Look you, *Pafely*, you were by when the Ship was hired.

Pafeley. Yes, I was by when the Money was paid.

L. C. Juft. Holt. Did they mention how many were to go in the Smack?

Pafeley. He faid, they were three of them, not four, as I remember, that were to go.

Sir Will. Williams. Will you ask him any think *Mr. Afhton*.

Mr. Afhton. No, Sir: But I defire the Woman may not go out of Court.

L. C. Juft. Holt. No, no; ſhe ſhall ſtay.

M. S. Thompson. Then call *John Fisher*, and *James Amonds*. (*Fisher ſtood up.*)

Sir Will. Williams. Pray do you acquaint the Court and the Jury what you know of this matter, whether you carryed any things on Board the Smack, and what; and who came on Board, and what hapned.

Fisher. My Lord, a matter of fix Hours before they came on Board, my Maſter carryed me a Shoar, and brought me to *Mr. Burdett's* Houſe, and gave me a Trunk, and I went with it, and another Man with a Hamper, and brought them on Board; and about 11 or 12 a Clock, my Maſter comes and brings *Mr. Afhton* and the other aboard; and he bid me go forward, and heave up the Anchor, and ſo I did, and we went down the River; but we could go but a little way becauſe there was no Wind; and when we came to *Half-way-tree*, the Tide Turning, we were forced to caſt Anchor again, and ſtay till the Morning; and in the Morning we weighed Anchor again about 8 a Clock, and about 9 we came into *Long-reach*, where lay the *George* Man of War, and then

Mr.

Mr. *Ashton* and they hid; and when we came below them again, they came up again till we came almost near the *Black-Houses* at *Gravesend*, and there they hid again; and Mr. *Ashton* I think came up afterwards, and bid me go down to the Hamper, and fetch them up some Victuals for their Dinner, and I went down and fetcht up some Beef, and Mr. *Ashton* took hold of it; and I took a Bottle of Wine or two out; and just before I brought all the Victuals up, the Barge was spied a coming to us; and then he went down again: And there they hid, and the piece of Beef was a top of them. Captain *Billop*, when he came near, waved his Hat, to bid us lie by; and we did lie by, till he came up to us; and when he came up to us, says he, Master, you have gotten a couple of good likely Men, worth the coming on Board for, says the Master. I hope Captain, you wont press them, says he. What have you to keep you clear, says he? I have a Protection. Have you, says the Captain? Let me see it: So he shewed him the Protection, and he read both our Names in it. Then, says he, Master, I must look farther; and he went down to the Quarter Hatches, and took them up, just where they lay. First my Lord came out; and he searcht them all, as they came out. Mr. *Ellyot* came out next, and Mr. *Ashton* stay'd within, being the last Man. And after he had searcht them, and done what he pleased; he got all the Papers and Writings: then he commanded us all to go into the Barge; and they came on Board the *George* Frigate in *Long-Reach*. And at the Ship, Mr. *Ellyot* came to us; and bid us say, we were going for *Flanders*. And after we came to *Whitehall*, Mr. *Ashton* gave me a half Crown Piece, and bid me say, we were bound for *Flanders*, and not for *France*.

L.C. Just. Holt. Was that after they were taken, or before?

L.C. Just. Pollexfen. When was the first time, that they would have you say, they were bound for *Flanders*?

Fisher. It was on board the *George* Frigate in *Long-Reach*.

L.C. Just. Holt. Who was it that bid you say so?

Fisher. Mr. *Ellyot* and Mr. *Ashton* both, in the Ship's Steerage, where they came to us.

L.C. Just. Pollexfen. Where was the next Place, that they bid you say so?

Fisher. At *Whitehall* Bridge *Ashton* gave me a half Crown Piece, and bid me say so.

Juryman. Did he speak that aloud, or softly at *Whitehall*?

Fisher. He whispered it in my Ear.

L.C. Just. Holt. Did they ever say they were bound for *Flanders*, till after they were taken?

Fisher. No.

Mr. Serj. Tremain. What manner of Place was this that they hid in?

Fisher. An ugly hole where a Man has no room to lie along at ease; he can neither stand upright, nor sit upright.

Mr. Serj. Tremain. Did you see the Waterman that brought them on Board?

Fisher. No.

Mr. Serj. Tremain. Was there any Waterman's Coat left?

Fisher. Yes, there was two.

L.C. Just. Holt. But didst thou see the Boat?

Fisher. We were a sleep when they came on Board, and the Boat was put off as soon as ever they came on Board.

Mr. Serj. Tremain. Then as soon as ever they were on Board, you got up the Anchor, and pulled in the Pendant?

Fisher. Yes, We immediately hove up the Anchor, and took in the Pendant.

Mr. S. Tremain. Did any Sculler hale you afterwards, as you were going down?

Fisher. Yes, as we were going down there did.

Mr. Serj. Tremain. What did you say to him?

Fisher.

Fisher. I was not steering then; but this other Man made answer.

L. Ch. Just. Holt. Mr. *Ashton*, Will you ask him any thing?

Mr. Ashton. When I gave you the Half Crown that you speak of, what did I say to you?

Fisher. You bid me when I came to be examin'd, say we were going to *Flanders*, and not to *France*.

Mr. Ashton. What did I say else?

Fisher. You bid me take that Half Crown for to Night, to help to bear Charges, and to Morrow you would take farther care of us.

Mr. Ashton. I told you you were Prisoners now, and I gave you that; and told you I would take farther care of you.

Fisher. You did not say we were Prisoners, but you said you gave me that to help bear Charges for that Night, and on the Morrow you would take farther care of us.

Mr. Serj. Thompson. Then set up *James Amonds*.

Sir W. Williams. Are you sworn Friend?

Amonds. Yes, Sir.

Sir W. Williams. Then let the Court and the Jury know what you can say in this matter.

Amonds. My Lord, they came on Board about 11 or 12 a Clock at Night, I was a sleep in the Cabin, and heard a Boat coming on Board, and I turn'd out, and before I could get out of the Cabin, they were got aboard, and I see no Boat, nor nothing. So, says the Master, go forward and heave up the Anchor; and after we had heaved up the Anchor, I goes into the Skip to tow the Vessel down, because there was no Wind, and we would not let the Vessel go foul on the Ships that were in the River, and a little after we came on Board again; and when I came on Board again, they were all on Board, all four. After that comes a Water-man, and I was at the Helm steering, and he called out to us! Oh hoe, says he; did not I bring a Parcel of Gentlemen on Board this Smack? Not as I know of, said I. Says he, I carryed a Parcel of Gentlemen on Board some Smack, that had a Pendant out, and I know not where it is; they carryed my Cloaths on Board with them. Said I, I know nothing of it, nor I did not; for I saw neither Water-man, nor Boat; so away the Waterman goes, and we went down the River, and when we came to *Half-way Tree*, we came to Anchor, and my Master went and laid himself down, the Tide being almost done, and there being no Wind, and Mr. *Ashton* and they lay in the Cabin; and says Mr. *Ashton* to me, take care of us now, and we will take care of you hereafter; says he, we shall help you to many a Freight, and many a Pound. Ay, ay, said I, you will be taken care of to be sure at Day break, or when the Day comes on; about 8 a Clock, we hove up the Anchor again, and fell down as low as *Long-Reach*, where the *George* Frigate lay; and when we came there, they went down to hide in the quarter Hatches. I steered it down still; and when we were got past that Man of War, the Hatches were taken up, and they came up again out of the Quarters, and sate in the Cabin again, and we had a fresh Gale of Wind, and run down to *Gravesend* quickly, and when we came near the Block-houses, said I, we are almost at the Block-houses; then said they we will go down again and hide a little; and so they did till they were past there, then resolving to go to Dinner.

L. Ch. Just. Holt. What time a day was this?

Amonds. About 11 a Clock, as near as I can guess.

Mr. Soll. Gen. Well, they did go down to hide then, did they?

Amonds. Yes, they did go down and hide, and came up again, I am sure some of them; I heard some of them in the Cabin.

Mr. Soll. Gen. Well, what followed?

Amonds.

Amonds. After they were gotten up, and past *Gravesend*, this Man was sent for Victuals for them, and so he fetch'd them some Roast Beef, and some other things; and just as the Roast Beef was going into the Cabin, said I, *Here comes a Barge off to press.* So when I cried, The Barge was a coming, they took the Victuals down into the Quarters, and there lay they, and the Victuals a top of them. And when the Barge came near us, the Captain waved his Hat to command us to lie by. Said I, *We must lie by, for the Barge is coming up to us.* And we clapp'd the Helm a-lee, and lay by; and after we were laid by, the Barge came on Board us. Says the Captain of the Barge, *You have got a couple of likely, good Men, Master,* said he, *Ay, says the Master; but I hope you won't press them.* Says the Captain, *Have you got any thing to keep you clear?* *Yes, if it please you, noble Captain, I have got a Protection.* I am sorry for that, says he, and comes on Board, for he stay'd all this time in the Barge; and smiling upon him, he comes on Board, and, says he, *Come, let's see your Protection.* And the Master shew'd it him, and he read it. Says the Captain, *I must look a little farther.* And he goes into the Cabin, and took up the Hatches, and there lay all these Gentlemen. They were something longer a coming up than he would have had them; so says the Captain to his Men in the Barge, *Come on Board, and see who is here.* And so some of his Men did come on Board; and, to the best of my remembrance, my Lord was the first Man that came up: And when my Lord came up, the Captain run his Hands into his Coat-Pockets, to feel for Papers, as I suppose; and my Lord desired the Captain to be kind, and take nothing away. Says he, *I'll take nothing but Papers; 'tis Papers I look for:* And he pull'd out a Watch, and gave it him again. After that, *Ellyot* came out; and whether he found any thing upon Mr. *Ellyot*, or no, I cannot tell. Mr. *Ashton* was the last that came up; and when he came up, a Water-man of the Captain's calls to him, and says, *That Gentleman that came up last has put something in his Bosom, but what I can't tell.* So the Captain took Mr. *Ashton* by the Arm, and turn'd him about; and, says he, *What did you put in your Bosom?* Says Mr. *Ashton*, *Nothing but my Handkerchief;* and pull'd out his Handkerchief, and shew'd him. Then the Captain put his Hand in, and pull'd out Papers, with a peice of Lead tied to them. And that is all that I saw.

Mr. S. Tremain. But tell us what happen'd afterwards.

Amonds. When that was done, the Captain commanded us all into his Barge; and I row'd, and some of the rest row'd, it being cold Weather, till we came up to *London.* After we came up to *London*, they did not say any thing to me, because I was a rowing till then. It seems they did give them some Money, but they gave me none, not till I came into *Whitehall*; and then my Lord's Man came to me, and call'd me a one side; says he, *Here's Half a Crown, will serve you to Night; and be sure, when you come to be examined, that you say, you were bound for Flanders, and not for France, and you will be taken farther care of to Morrow.*

Mr. S. Tremain. What manner of place is that Quarter-Hatches?

Amonds. They could neither sit, nor stand upright in it.

Mr. S. Thompson. What did they lie upon?

Amonds. There were three or four slit Deals that were laid over the Ballast, but it seems they had shuffl'd 'em on the one side when they were taken, for the Ballast lay open.

Mr. S. Tremain. Did the Water-man that brought these Men on Board you, leave his Coat there?

Amonds. I did not see the Boat, nor the Water-man; and therefore I am not able to say any thing about it.

Mr. Sol. Gen. How came the Pendant to be taken down?

Amonds. I can't tell that, I was in the Skiff when it was taken down.

Jury-man. My Lord, I do not very well understand how the Papers came to be taken away from Mr. *Ashton*.

L. C. J. Holt. He tells you, Mr. *Ashton* was seen to put his Hand with something into his Bosom; and being tax'd with it, he said it was his Handkerchief; and the Captain put in his Hand, and pull'd out a Bundle of Papers.

Jury-man. Did he see *Ashton* take away the Papers from any other place?

Amonds. No, an't please your Honour, I did not see them till they were taken out of his Bosom.

L. C. J. Holt. Did you see Captain *Billop* take the Papers from out of Mr. *Ashton's* Coat?

Amonds. Yes, I did.

L. C. J. Holt. Where were they before they spy'd the Barge a coming?

Amonds. If it please your Honour, I heard 'em talk; I thought they had been up, but it seems there was but one of 'em up when they said, The Barge was coming a-board: I was at the Helm, and heard 'em talk.

L. C. J. Holt. Then you knew nothing of these Papers, but when you saw 'em taken out of *Ashton's* Bosom?

Amonds. No, my Lord.

Sir Wi. Williams. If you will ask him any thing, Mr. *Ashton*, now you may.

Mr. Ashton. Pray Friend, Had not I been up first, and search'd before the Papers were taken?

Amonds. Not as I know of.

Mr. Ashton. Did not I go down into the Hold to take my Hat, and call to you, and desired that I might go down for my Hat?

Amonds. I can't tell; for when I saw the Papers taken from you, I was in the Stern; I was not down.

Mr. Ashton. Had not I been search'd first?

Amonds. Not that I know of, till you were in the Stern.

Mr. S. Thompson. Then swear Captain *Billop*.

Which was done, he standing up by the Sheriff.

Mr. S. Tremain. Captain, I suppose you may be heard from that place.

Mr. Ashton. My Lord, I desire the Witnesses may come down, else I shall not be able to distinguish what he says: It is the proper place for him, I think.

L. C. J. Holt. Let him come down.

Mr. Ashton. I humbly desire, my Lord, that the Witnesses may all be obliged to stay in Court.

L. C. J. Holt. Let them all stay.

Sir Wi. Williams. You are sworn, Sir: Are you not?

Capt. Billop. Yes, I am.

Sir Wi. Williams. Then, pray, will you give an Account where you took these Persons, how you took 'em, what you found, and how you disposed of it.

Capt. Billop. Must I begin from the Beginning?

Sir Wi. Williams. Yes; Tell your whole Knowledge, in Order of Time, as it fell out.

Capt. Billop. What, from the Time I went out?

Mr. S. Thompson. Make it as short as you can.

Sir Wi. Williams. Yes, you must tell all; for you speak now to a new Jury, and here is another Prisoner at the Bar to be tried.

C. Billop. The last of December, about Two-a-Clock, or between One and Two, my Lord of *Danby* came to me at one of the Doors of the House of Lords, and told me, his Father must speak with me; and he carry'd me up to my Lord *Lissey's*

sey's Chamber ; and in a little time my Lord President came there, and told me, he heard there were divers Persons that had Papers of dangerous Consequence, and were going to *France*, and desired me to use my Skill for my seizing and securing of the Papers. I began then to talk of what was proper for such an Undertaking ; and I told my Lord, I thought the best way, was to go to *Woolwich* or *Deptford*, and to take a Man of War's Pinnace with us : Upon that, my Lord of *Danby* being by, said, he knew of a Boat that he could have, which was my Lord Duke of *Grafton's* ; and my Lady Dutchess had lent it him, and he would go, and get it ready : Upon this my Lord President said, he would give me a Note of the Name of the Vessel, and where she went out ; and likewise a Letter to another Person, that would instruct me farther, and shew me the Vessel ; accordingly my Lord President gave me the Letter, and I went away to look for the Person, but could not find him. My Lord *Danby* came to *Tower-Wharf* himself with the Boat ; and I left a Man there to bring me word, when the Boat came up at the Place where I was ; and Captain *Stringer*, and Sir *Thomas Taylor* came there to me. After my Lord of *Danby* had told me what I had in the Boat, I told him, I thought there were not Arms enough ; and therefore it were best to go to the Tower, to borrow some Arms from thence : When we came to the Tower, my Lord *Lucas* was not come in ; and when I had staid a little time, he did come in : And when I had acquainted him with my business, he sent for an Officer of the Guard, and there we borrowed some Arms, a Blunderbuss of his, and a Carbine, and the like ; and about Eleven-a-Clock, or somewhat past, we put off from *Tower-Wharf*. It was calm, and we rowed down towards *Gravesend* ; and we went aboard a Vessel or two, but was not willing to lose much time, because I was resolved to take them before they were gotten too far : So we rowed away for *Gravesend*, where I refresh'd my Men, and afterwards went down into the *Hope* ; and I did judge, that no Vessel that could come from *London* that Tide could be a-head of me. I went on board several Vessels that lay in the River, in order unto the pressing of Men ; and I went on board all sorts of Vessels, because I would give no Suspicion of what I was about ; and having been on board of several, I pressed two or three *Barkin* Men ; and one particularly, that knew all the Vessels upon the River ; and I made him to row very near to me, that I might talk to him ; I had got the Names of a great many Smacks, and gave it out, that I would press a Smack to carry for a Tender to my Ship, when the Fleet went out ; and naming this Smack that I was to go to search, I told him, *I heard such a Smack sailed well, and I had Thoughts of pressing her* ; he told me, *She was old* ; but said I, *She will serve a Summer well enough ; and that is it I intend to press, if I can find her*. Says he, *I'll shew you her, I know her when I see her* ; so we went on board several Vessels, as we went along. And as we were rowing along before, we came to the *Nest Point* by *Tilbury Fort*, we saw several Smacks coming down the River ; and when we came about the Point, the headmost Smack of all, the Fellow, lookt out, and said, *Tonder is the Thomas and Elizabeth*. Then I called to one of my Men to wave, and bring them to lie by, which they did, and they lay by till I came on board. When I came on board, I saw two lusty Men stand by the Master ; said I, *Master, you have got two good lusty Fellows that would serve the King ; but I'll be kind and civil to you, I'll take but one*. Says the Master, *I hope not so ; for I have a Protection* ; and with that, I came on board, and took his Protection in my Hand, and read it. As soon as I had read it, I ask'd him, if he had no more Men upon Deck than what I saw. He said, *No ; then*, said I, *I must look a little farther*. And I went into the Quarters, and took up the Scuttle, and the Hatches, and I saw some Gentlemen lie. Oh, said I, *What a pretty Posture is this ? Where are we a going ? Gentlemen, you must turn out*. The first that came to hand was my Lord *Preston* ; but I did not know him then, nor some time after

after I was in the Boat with him : So I took hold of him, and help'd him up ; and when he was up, said I, Sir, *I must search you.* Says he, *I hope you will take nothing from me.* Nothing, said I, *but Papers :* So I search'd all his Pockets ; and as I found any Papers, I put them into my own Coat-pocket. And I took his Watch, and pull'd it out, and gave it him again : After that I had search'd him, came up Mr *Ellyot* the first Man, and the next was Mr. *Ashton*, who crouded up while *Ellyot* came up, in his Night-Cap. *I think, Mr. Ashton, you had your Night-Cap on.* So Mr. *Ashton* goes down again, and puts on a Periwig, I think ; but coming up again, one of my Sea-men sees him take something, and put it into his Bosom : He follows Mr. *Ashton* quick, and pulls me by the Coat ; and, says he, *That Gentleman has got something in his Bosom :* So I took hold of him, and turned him round ; said I, Mr. *Ashton*, *what have you got in your Bosom ?* Nothing, says he, *but a Handkerchief ;* and immediately he put his Hand into his Bosom, and pluck'd out the Handkerchief, and shew'd me. As soon as he had pulled out the Handkerchief, I put my Hand into his Bosom, and there I met with the Pacquet that had the Lead affixed to't ; and pulling it out, I clapp'd it into my own Pocket ; for I thought that was the Matter of Moment that I was to secure. So I ordered them to go into the Boat, and the Master of the Vessel to let go his Anchor ; and two Men I left in the Vessel, whom I ordered to search, and to secure what they found till farther Order ; and I left two Musquets with them. And after we were in the Boat, they desired to have somethings handed in, which I gave Order for, a Hamper, and a Night-bag ; and away we put off from the Vessel, and rowed up ; it was against Tide, and very cold Weather. In a little time Mr. *Ellyot* called one of the Gentlemen, My Lord ; then I whispered him, and ask'd him who that Lord was, and he told me, *It was my Lord Preston.* Then I saluted my Lord ; and my Lord was pleased to say, he was very well satisfied they were fallen into the Hands of a Civil Gentleman. So rowing up against Tide, and it being a Westerly Wind, which blow'd very fresh, My Lord desired that I would let them stop at *Gravesend*, till the Tide turned, that they might refresh themselves. I begged his Pardon, and said, there was a Ship in *Long Reach*, the *George-Frigot*, and we would stop there ; and I did not doubt, but I would command the great Cabin for his Accommodation ; and there he might have any thing that he wanted. My Lord seemed contented with it ; but before we came on Board the Man of War, there happened a great deal of Discourse betwixt us of several things.

Sir W. Williams. Pray repeat it as well as you can remember what Discourse happened.

Capt. Billop. Truly my Lord *Preston* being cold, and the Hamper standing by, says he, *Captain Billop, we have not eaten, we will eat if you will.* And there was a piece of Bief at the top of the Hamper, and Bottles of Wine ; and I opened the Hamper, sitting fairest for it, and handed out the Beef, the Bread, and the Bottles ; and after we had eaten what we would, my Lord ordered the rest to be given to the Men that were the Boats Crew, and after we had done this, and taken out a Bottle or two, and shut up the Hamper again, my Lord *Preston* drank to me once or twice, and seem'd very well satisfy'd and pleas'd with his Usage. He told me he was sensible of my Civilities ; and if ever it lay in his Power, he would not forget me. So we drank again, and talk'd again ; but before we came to the Ship, My Lord *Preston* told me, that if ever it lay in his Power, he would be sure to make an acknowledgment of the Civility I had shew'd him. And to the best of my Memory, he had this Expression, *If there ever was any thing he could serve me in, he would do it with all his Heart, if I would but dispose of the Packet.*

Mr. S. Thompson. What would *Mr. Ashton* have had you done? What did he say to you?

Capt. Billop. *Mr. Ashton* said, it would do me no good to injure so many Gentlemen; and desired me that I would throw the Packet over-board.

Mr. S. Tremain. What did he mean by so many Gentlemen?

Capt. Billop. My Lord, I cannot tell, but that was his Expression.

Mr. S. Tremain. Who desired you to throw the Packet over-board?

Capt. Billop. *Mr. Ashton* did several times.

Mr. S. Tremain. What did he say to you? What Arguments did he use?

Capt. Billop. My Lord, it was so many times over, and so much mixture of Discourse we had, that I am not able to tell the Particulars.

L. C. J. Holt. But what Arguments did he use?

Capt. Billop. I don't know that he used any more great Arguments, more than what I have told you already.

L. C. J. Holt. Say that again that you said before.

Capt. Billop. He said, 'twould do me no good to injure so many Gentlemen.

Prethee, Captain Billop, says he, *throw it over-board.*

Mr. S. Tremain. What did he say farther?

Capt. Billop. I'll tell you, if you'll give me leave. *Mr. Ashton* did say, a little after this, with a great deal of Insinuation, *Captain Billop, What if you should turn about, and go along with us? No, Mr. Ashton,* said I, *that I cannot do.* Says *Mr. Ellyot, Prethee, throw the Packet over-board.* This they did as we came up the River; and 'tis the most that I can remember, till we came on board the *George*; and when we came on board the *George*, *Ellyot* called me into the Steerage, and desired me, of all Love, that I would dispose of the Packet: And he said, that now I had an Opportunity to make my self as rich, and as great, as I would, and no body could see it, if I did throw it away. While I was in the Ship, *Mr. Ashton*, my Lord, and *Mr. Ellyot*, were with me, in the Steerage. Said I, *I shall be taken notice of, to be whispering; pray forbear.* *Ashton* then spoke to me again, to desire me to throw the Packet over board; by this time the Victuals was handed in, and there we eat and drank, and my Lord smoked a Pipe of Tobacco, before the Tide turned; and when the Tide made, we went into the Boat again, and rowed up towards London, and they were using these sorts of Arguments over and over again. And once *Mr. Ellyot*, I think 'twas, to the best of my remembrance, told me, *Now you have it in your Power to make your Fortune, and may be as great a Man, and as rich a Man as you can desire.* And *Mr. Ashton* said some Words something to the same purpose; *Prethee,* said he, *throw it over-board: What Good will it do you?* So I refusing of it, as I did many times, *Mr. Ellyot* told me, that I might take the Letters that were taken in my Lord *Preston's* Pocket, and tye the Lead to them, and throw the Packet over-board. No, said I, *Mr. Ellyot*, Sure, you would take the King's Council to be a very odd sort of Men, that they cannot find out such a thing as this. *Prethee, dear Billop,* said he, *throw it over-board.* Many times whispering me in the Ear; and so did *Mr. Ashton* many times, saying, *You may do us a great Kindness in it.* And we drank, and had several Intermisions; and they at me again, and I denied them, and they desisted; and then they at it again: And *Mr. Ellyot* then told me, *Prethee, dear Billop, throw it over-board.* Said I, *Mr. Ellyot*, If I should be so great a Villain to do such a thing, if ever it was your Day, would you trust me again? Put it to be your own Case. Says he, *You have Gentlemen to deal withal.* But, said I, *I will never put it into your Power.* *Mr. Ellyot* seem'd to be angry at this, and said, *Every Dog had his Day.* Said I, *I hope never to see it your day: But I pray, forbear this*

Discourse;

Discourse; let me beg that of you; for I do not desire to be provoked to use you otherwise than a Gentleman. And after that, they never urged me more to throw the Packet over-board: But Mr. *Ellyot* was angry, and very much disturbed, and wished a Thunderbolt might strike the Boat, and sink it. So I brought them up, through *London-Bridge*, and they said no more about the Packet; but *Ellyot* wished, that *London-Bridge* might have fallen on our Heads. At length, I brought them to *Whitehall*; and I put my Man a-shore at *Hungerford-stairs*, that he might get before, and give the Porter notice at *Whitehall-Bridge*, that he might open the Gate. I brought my Lord *Preston*, and the rest, to the Bridge; and while I was arming my Men, to guard them up to my Lord *Nottingham's* Office, I suppose they then took the Opportunity to give the Men Money, getting near to them; I know nothing of that: But I carried them up to my Lord *Nottingham's*, and there I delivered them, and the Packet to my Lord. After some time, the Packet lay upon the Table, and my Lord *Nottingham* sends me for my Lord *Preston*. When my Lord *Preston* came in, I withdrew without bidding, and the Packet lay upon the Table, unopen'd: And when my Lord *Preston* came out, I went in on my self, and the Packet lay in the same Place and Posture, and not open'd. And I stay'd while Mr. *Ashton* was call'd in, and my Lord *Nottingham* ask'd him a great many Questions.

Mr. Ashton. Pray repeat those Questions, Captain *Billop*; and what Answers I made.

Capt. Billop. Truly, my Memory does not serve me to remember all of them, and I was in a very uneasy Condition at that time, and would much rather have been in my Bed, than any where else: For the Night before I went down, I had a Plaster of *Spanish* Flies put to my Back, and they had raised a great Blister, and it had not been dressed so long, that the Napkin that was applied stuck so to it, that the Flesh was jagged, and I was in a great deal of Pain, so that I did not mind, so much as I should have done at another time, what was said.

Mr. Ashton. But pray, Captain, remember as much as you can what pass'd.

Capt. Billop. But I'll tell you what I remember; I remember my Lord *Nottingham* asked, who I took the Packet from? And you owned, I took it from you.

Sir W. Williams. Pray Mr. *Ashton*, give us leave to have done with him, and then you shall ask him what you please. Pray go on, Captain *Billop*.

Capt. Billop. Then my Lord *Nottingham* sent for Mr. *Ellyot* in, and ask'd him whither he was going? And he said, For *Flanders*. My Lord asked him, what he was going there for? He said, He was going to seek his Bread; he was turn'd out of all at home, and he had rather go abroad to seek his Bread, than stay at home to starve.

Mr. S. Tremain. Was this the Lead, that you took, fix'd to the Packet?

Capt. Billop. Yes, Sir; that is the Lead.

Mr. S. Tremain. Did you take that Lead, with the Packet, out of Mr. *Ashton's* Bosom?

Capt. Billop. This was tied fast to the Packet that was taken out of Mr. *Ashton's* Bosom. These honest Men saw me take it.

Sir W. Williams. Now, if you have a mind to ask him any Questions, you may.

Mr. Ashton. Pray, Captain *Billop*, Did not you search me before you took the Packet upon me?

Capt. Billop. No, not that I remember.

Mr. Ashton. Had not you taken some other Papers from me before?

Capt. Billop. No, Sir; I took none from you but the Packet.

Mr. Ashton. Pray recollect your self, for perhaps my Life may turn upon it: You are as much a Witness for me, as for the King; you are to swear the Truth, and the whole Truth.

Capt. Billop. And I will do you all the Justice I can, I will assure you.

L. C. J. Holt. Answer his Question, Captain Billop.

Mr. Ashton. Was not I the first Man that spoke to you after we came up?

Capt. Billop. No; *Mr. Ellyot* was the first Man that spoke to me, that I knew.

Mr. Ashton. Did not I ask you to give me leave to go down for my Hat?

Capt. Billop. Truly, I don't remember that.

Mr. Ashton. Did not you reply, That the Man should go down and fetch my Hat?

Capt. Billop. 'Tis likely I might, but I don't remember it.

Mr. Ashton. Had not you search'd me then, and taken Papers from me?

Capt. Billop. No, *Mr. Ashton*; for, upon the Oath that I have taken, I took no Papers that I remember, but the Papers that I took out of my Lord *Preston's* Pocket, and the Packet that I took out of your Bosom; for my Lord *Nottingham* ask'd me, if that Packet was all the Letters I took? I told him, No; and shew'd him the Papers I took out of my Lord *Preston's* Pocket, and they prov'd to be of no Consequence, and my Lord *Nottingham* gave them me again, and I carried them to my Lord *Preston*.

Mr. Ashton. Did not I go down into the Hole for my Hat?

Capt. Billop. I believe you might.

Mr. Ashton. And was it not after that, that you took the Papers out of my Breast?

Capt. Billop. Yes, I believe it was.

Mr. Ashton. Where is your Man that call'd to you, and said, I put something in my Breast?

Capt. Billop. Here he is, by me, if you would ask him any thing.

Mr. Ashton. You say, I spoke to you about disposing of these Papers: Pray, from the Time that we came into your Boat, before we came on Board the *George* Man of War, did I speak to you?

Capt. Billop. Yes, of the Packet you did: You said, *What Good would it do me to injure so many Gentlemen?*

Mr. Ashton. There pass'd no more than general Discourse before we came on Board?

Capt. Billop. Yes, *Mr. Ashton*; I'll tell you another thing you put me in mind of. When you saw that, though you were so eager with me, nothing would prevail, you said, *I know Captain Billop, and have known him many Years; and nothing will prevail on him, if he have no mind to it: And I know, if he will serve us, he will serve us generously, and like a Gentleman.*

Sir W. Williams. Speak that again.

Capt. Billop. He said, *I know Captain Billop; if he will serve us, he will do it generously, and like a Gentleman.*

L. C. J. Holt. Who said so?

Capt. Billop. *Mr. Ashton.*

Mr. Ashton. Did I speak to you to dispose of the Papers after we came from on Board the Ship? I suppose you remember it was cold, and the Tilt was call'd for, to be lay'd over us, and I fell asleep; and you know I never wak'd, nor spoke, till I came to *London-Bridge*.

Capt.

Capt. Billop. Yes, yes; we had the Tilt over us.

L. C. J. Holt. Pray speak your Questions out, that we may hear 'em, Mr. *Ashton*.

Capt. Billop. Mr. *Ashton* did go to sleep a great while, but he had many times urg'd me, and spoke to me to throw the Papers over-board.

L. C. J. Holt. Who was it that told you, *Every Dog had his Day*?

Capt. Billop. That was *Ellyot*.

Sir W. Williams. Was there any Discourse about Turning of the Tide?

Capt. Billop. Mr. *Ellyot* said, *You have now an Opportunity to make your own Fortune, and you may be as great, and as rich as you please; for 'tis impossible the Tide can run long this way.*

Mr. Serj. Tremain. Did Mr. *Ashton* say any thing about going along with them?

Capt. Billop. Yes: You may remember, Mr. *Ashton*, that you said, *Come, go along with us; you may do as well there, or better than you do here.*

Mr. S. Tremain. Did he tell you, where you were to go with 'em?

Capt. Billop. No, Sir; nor I did not ask him the Question.

Mr. Ashton. Pray, When did you give my Lord *Nottingham* these Papers?

Capt. Billop. Do you mean that Bundle that I took out of your Bosom?

Mr. Ashton. Yes.

Capt. Billop. As soon as ever I follow'd my Lord *Nottingham* into his Room, I pull'd 'em out, and gave 'em him.

Mr. Ashton. Did not you go out of my Lord *Nottingham's* Room, and give my Lord *Nottingham* some loose Papers?

Capt. Billop. Yes.

Mr. Ashton. After this, Was not my Lord *Preston* call'd in to be examin'd?

Capt. Billop. Yes.

Mr. Ashton. How long was my Lord *Preston* in the Room, while you were out?

Capt. Billop. I can't tell very well.

Mr. Ashton. Pray, Sir, answer that Question.

Capt. Billop. I believe it might be half a quarter of an Hour: I do not think it was much more.

Mr. Ashton. I believe you must remember some sort of Discourse that was betwixt you and Captain *Ellyot*, even to a Quarrel almost. And did you not speak to my Lord *Nottingham's* Servants, to fetch your Hat out of my Lord *Nottingham's* Room.

Capt. Billop. Yes, I do remember that.

Mr. Ashton. This must be a good considerable Time: It was all the Time that my Lord *Preston* was within with my Lord *Nottingham*, that you were out?

Capt. Billop. Yes, it was.

Mr. Ashton. And all that while was not the Bundle of Papers out of your sight?

Capt. Billop. It lay upon the Table.

Mr. Ashton. Pray, answer my Question: Was it not out of your sight?

Capt. Billop. Yes, it was.

L. C. J. Holt. Yes, yes; it must be, for he was out of the Room.

Mr. S. Tremain. When you came into the Room, did you find the Papers in the same Condition?

Capt. Billop. Yes, they were unopen'd, except that my Lord had taken off the Lead, and a little Paper fell loose from the rest.

Mr. Ashton. Pray, take notice of that, Gentlemen.

L. C. J.

L.C. J. Holt. But pray don't infer more from thence than it will bear,

Mr. Ashton. It seems some of the Papers were taken out.

L.C. J. Holt. He does not say any such Thing, that some of the Papers were taken out.

Mr. Ashton. He says, Something was cut, and some Papers fell out.

C. Billop. There was a little Paper or two tyed to the great Pacquet.

L.C. J. Holt. What became of them?

C. Billop. They we cut loose, but not opened.

Mr. Ashton. How can you tell they were not opened?

C. Billop. Because I stood by when they were cut.

Mr. Ashton. But how can you tell that; for you see the little Papers taken, and they were loose from the others?

C. Billop. They were taken from the great Bundle before I went out.

Mr. Ashton. Had not my Lord opened those Papers before you came in?

C. Billop. No.

Mr. Ashton. How can you tell that?

C. Billop. I tell you, as near as I can judge, they lay in the same Posture that I left them in.

Mr. Ashton. Was the Pacquet sealed when you took it?

C. Billop. No; but it was tyed. There were several Letters in it that were sealed; it was tyed up very hard.

Mr. Ashton. I do not Question but my Lord Nottingham will do me the Justice to say how long he was in the Room.

L.C. J. Holt. You must not Comment, nor make your Observations till your proper time.

Fury-man. Pray, my Lord, I desire he may be asked who was with my Lord Nottingham when my Lord Preston was there.

C. Billop. There was no Body else then.

Fury-man. Then 'tis not probable they were altered before Capt. Billop came in.

Mr. Ashton. But I hope Probabilities shall not be Evidence to condemn any Man.

Fury-man. Those Two little Papers you speak of, were they severed from the Pacquet?

C. Billop. I cannot tell whether they were or no; they seemed loose upon untying the Bundle.

L.C. J. Holt. Were they cut in your presence?

C. Billop. Indeed, my Lord, I cannot say that I did see them cut.

Mr. Ashton. Pray take notice of that, Gentlemen of the Jury.

L.C. J. Holt. They are Twelve honest Gentlemen, they will do you right.

L.C. J. Pollexfen. Observe what the Witness says; he says, That he does not remember that they were cut in his presence, but he does not say, they were not.

Mr. Ashton. If he does not swear they were, it is reasonable to conclude they were not cut in his presence.

L.C. J. Holt. He says, the great Pacquet was not opened, the Two little Papers were loose from the rest of the great Bundle.

C. Billop. There might be Two or Three of them, less or more, I cannot tell.

Mr. S. Thompson. You will be further satisfied in this Matter upon my Lord Nottingham's Evidence, I suppose.

Mr. S. Tremain. We have done with Capt. Billop for the present. Pray call Johnson.

(Who was Sworn.)

Sir W. Williams. Were you at the taking of that Gentleman, and the others in the Smack?

Johnson. Yes, I was.

Sir W. Will. Then pray give an Account of the Matter how it was.

Johnson. We went down in a Pleasure Boat and went to the Tower, went set through Bridge against Tyde, my Lord of Danby was with us; and when we came to Tower Wharf there they went to the Tower for Arms, and we stayed

till Ebbing Water, and Rowed to *Graves-end*; and when we came to *Graves-end* we went on Board several Ships, and I thought we were going a Pressing; and we stayed at *Graves-end* the time of the writing of a Letter, and then we went both into the Boat again, and Rowed after a Smack that had gained of us, but that not being the Smack we turned back again, and then it was high Water: And when we came to the upper end of the *Hope* we saw several Smacks coming, and there was a Fisher-man on Board that said, that was the Smack the Captain enquired after, that was coming down there; and when they came on Board the Captain said there were two or three brave Men, and he hoped he could spare one of them; and the Master said he hoped he would take none of them because they had a Protection, which he shewed to the Captain. Then the Captain went in and bid me take some small Arms and go on Board with him, and told the Master he must look a little further; and the Boards were taken up, and I saw a great piece of roast Beef, and under that my Lord *Preston*, and Mr. *Ellyot*, and this Gentleman Mr. *Ashton*: My Lord *Preston* came up first, and Mr. *Ellyot* next to him; and I see this Gentleman take up something and put it into his Bosom, and I told the Captain of it, and he asked him what it was, and he said nothing but his Handkerchief, and plucked out the Handkerchief; but the Captain put his Hand into the Bosom and pulled out something else.

L. C. J. Holt. What was it?

Johnson. It was a parcel of Papers tied up with a piece of Lead tied to it, for I came up close after him and see him take it up.

Sir W. Will. What else were there found with the Papers, was not there some Seals?

Johnson. That was afterwards; but when the Captain asked him what he had gotten in his Bosom, he pulled out his Handkerchief, and said nothing but his Handkerchief; but the Captain took the other Papers out of his Bosom and so I went down and there were the Two Seals, and I took them up; and when I came up *Ellyot* had a pair of Black Whiskers on, and he borrowed a pair of Scissors and cut them off, and said he should remember me again if ever he lived, he should know me by my Tooth being out. And coming up into *Long-reach*, *Ellyot* was a cold, and got to the Oar and Rowed, and said you row as if you were Rowing to Prison; and he wished that a Thunder Bolt might drop into the Boat, and that *London-bridge* might drop down upon his Head. And when we came up to *Whitehall* I stood a Guard over them.

Jury-man. Did you see Captain *Billop* take the Pacquet of Letters from that Gentleman's Breast?

Johnson. Yes, I did.

Jury-man. Did you belong to Captain *Billop*?

Johnson. Yes, I was one of the Boats Crew.

Mr. Ashton. Had not I been up and searched before?

Johnson. Yes, I think you had been up before.

Mr. Ashton. And then you saw me take up the Pacquet off from the Ballast?

Johnson. Yes, I saw you take it out of the Ballast and put it into your Bosom.

Mr. Ashton. Gentlemen, I hope, you will be pleased to take notice of that.

L. C. J. Holt. No doubt of it they will.

Mr. Ashton. Did not that bundle of Papers, that was taken out of my Breast, did not they lie near to the place where the Seals lay?

Johnson. Yes, it lay just by them.

Mr. S. Thompson. Pray set up Capt. *Billop* again. (Which was done.)

When you brought these Papers to *Whitehall*, Capt. *Billop*, who did you deliver them to?

C. Billop. To my Lord *Nottingham*.

Mr. S. Thompson

Mr. S. Thompson. After he received them, what did he with them?

C. Billop. After he had examined all these Gentlemen he went to opening of the Papers, and he desired me to stay in the Room till they were opened, which I did; and my Lord upon looking on some of the Papers said, if this Pacquet had gone we had quickly been visited by the French. With that I took them up, and lookt into them. My Lord said, I might look into as many of the Papers as I pleased; but I was very Uneasy and full of Pain, and had more mind to be gone, and be a Bed, than a looking into Papers; but several of the Papers I did look into, and several I put my Mark upon; and the next at the Council, what of them I did know I did put my Mark upon.

Mr. S. Thompson. After my Lord Nottingham had perused them, what did he do with them?

C. Billop. My Lord put them up in a Cover, and tyed them with a Piece of Twine, and put his Seal upon them, and gave them me, and desired me to carry them to my Lord President; which I immediately did, and without stopping carried them to my Lord President.

Mr. Ashton. When was this, Sir? Was it that very Night that we were brought to Whitehall?

C. Billop. Yes.

Mr. S. Tremain. Then we must desire my Lord Nottingham to be Sworn.

The Earl of Nottingham Sworn.

Mr. S. Thompson. Will your Lordship please to give the Court an Account how these Papers came to your Lordship, and how your Lordship disposed of them.

E. of Nott. Capt. Billop came to my Office——

Mr. Ashton. I humbly desire your Lordship would please to speak louder; for I cannot hear your Lordship, and I fear the Jury cannot.

E. of Nott. I speak as loud as ever I can, but I have a great Cold.

L. C. J. Holt. You may hear my Lord very well, if the Court be but silent.

L. Nott. Capt. Billop brought to me a Pacquet tyed about with a Packthread, to which there was a Piece of a Leaden Pipe fixed, in which Pacquet there was stuck in another Paper, I think there was but that one besides the Cover, but what it was particularly I do not remember, this Pacquet was laid upon the Table while he was by; and I called in my Lord Preston, not being willing to make him stay, and after I had some Discourse with my Lord to examine him what Account he could give of these Proceedings; then I called in your self Mr. Ashton, and Capt. Billop was by also, but the Pacquet so tyed with the Packthread I cut open in Billop's presence with a Pair of Scissers; the same Papers that were in that Pacquet, together with the little Paper that was stuck in, I tyed up, I am sure I sealed them in a Sheet of Paper, and gave them back again to Capt. Billop to carry them to my Lord President.

Sir W. Will. Capt. Billop, you have already declared that all you received from my Lord Nottingham you carried to my Lord President.

C. Billop. All the Papers that I received from my Lord Nottingham, just as I received them sealed with my Lord's Seal, I went directly to my Lord Presidents, and gave them him.

Sir W. Will. Pray, my Lord, did your Lordship deliver to Capt. Billop all the Papers that you received from him?

E. of Nott. My Lord all the Papers that Capt. Billop brought to me that were in the Pacquet (for he brought some Letters that he took out of my Lord Preston's Pocket that were of no Consequence) but all the Papers that were in the Pacquet I delivered back to Capt. Billop Sealed as I received from him, and no more and no others; for the other Letters they being from my Lord Preston's Children,

Children, and not relating to the Publick, I gave them to him to give my Lord Preston again.

Mr. Ashton. My Lord, I humbly beseech your Lordship to tell the Court how long my Lord Preston was with your Lordship in the Room.

E. of Nott. Truly I am not able to tell you particularly how long it was, I believe it might be about a quarter of an Hour, or scarce so much.

Jury-man. Was there no body with your Lordship, when Capt. Billop was out, but only my Lord Preston?

E. of Nott. No, not that I know of.

Mr. Ashton. My Lord, I have one Favour more to beg of your Lordship, I humbly pray your Lordship will please to tell the Court and Jury what Answer I gave to your Lordship, when you asked me how I came by those Papers.

E. of Nott. As near as I remember the Account that you gave of them was, That you went down again after you were come up, as you said, to fetch your Hat; and that when you did go down into the little Hole to fetch your Hat you brought up these Papers with you.

Mr. Ashton. My Lord, this was the Account I did give. Now this very well corresponds with that Man's Evidence, that says he saw me take up the Papers and put them into my Breast.

L.C.J. Holt. He does say so, and this does all very well agree.

Mr. Soll. Gen. Now we desire my Lord President would please to be Sworn.

The Lord President Sworn.

Mr. S. Thompson. Pray, my Lord, will your Lordship please to declare to the Court what Papers Capt. Billop brought to your Lordship, and how your Lordship disposed of them.

L. Pres. Capt. Billop did bring me a Pacquet tied with a Packthread, and that was sealed with my Lord Nottingham's Seal, I knew it to be his Seal; and he told me that my Lord Nottingham commanded him to bring that Pacquet to me. I opened the Pacquet, and perused all the Papers; it was very late and I locked them up till Morning, and I then carried those very Papers to the King, and in the King's Closet, at Kensington, the King read some of them, and in my sight, for I never parted from the King, but was by all the while: The King put up all the Papers again, and commanded me to call a Cabinet Council, and to let them be delivered there to the Council; accordingly I did deliver them Paper by Paper, and they were all marked there by my Lord Sydney, who is here present; and they were then delivered into the Hands of my Lord Sydney.

L.C.J. Pollex. Will you please to ask my Lord any Questions, Mr. Ashton?

Mr. Ashton. My Lord, if your Lordship will be pleased to pardon me, I would ask your Lordship, Did any of your Lordships Servants, or Family read any of these Letters?

L. Pres. No, not one.

Mr. Ashton. Were they locked up where any of your Lordships Secretaries, or Servants could come to them?

L. Pres. No, I lockt them up in a strong Box in my Closet.

Mr. Ashton. My Lord, I only desire this Favour further of your Lordship. Your Lordship at the Committee of the Council was pleased to ask me, how I came by those Papers; I presume you may remember, and I pray your Lordship to declare, what answer I gave.

L. Pres. Truly, Mr. Ashton, to tell you the Truth, I do not remember the Particulars, I remember you denied every Thing; I can only say that in the general, but what you said in particular I cannot remember.

L.C.J. Pol-

L. C. J. Pollex. Do you put my Lord in mind, if you can; See whether he does remember it.

Mr. Ashton. My Lord, I only desire to ask my Lord President, whether I did not tell him I went down after I had been searcht into the Hold, and there I see the Papers lye, and brought them up, and put them into my Breast; and they were no sooner in my Hands but Capt. *Billog* had them in his; for the Man called and said, This Gentleman has Something in his Breast, and the Captain put in his Hand and pulled it out.

L. Pres. Truly, Mr. *Ashton*, I do not remember the Words that you used, but remember you said Something to which I made answer, What makes it matter, They were found upon you, and taken out of your Bosom, do you look to it how you came by them. I do not remember what you said, for I cannot remember particular Words, but I believe you might say some such Thing.

Mr. Soll. Gen. Then, pray my Lord *Sydney*, will you be pleased to be Sworn.
The Lord Sydney Sworn.

Mr. S. Thompson. Will your Lordship be pleased to declare what Papers you received from my Lord President?

L. Syd. At the Cabinet Council my L. President delivered a Pacquet of Papers, I received them every one there, and markt them, and put them in my Pocket.

Mr. S. Trem. Did your Lordship deliver them to any Person afterwards?

L. Syd. The next Day, or the Day after, I gave them to Mr. *Bridgman* to Copy out, and he delivered them back to me again.

Mr. Soll. Gen. Pray, my Lord, give me leave to ask this Question—

Mr. S. Thomps. Your Lordship had markt them before you delivered them to Mr. *Bridgman* to Copy?

L. Syd. Yes, I markt them at the Council Table, at my L. *Nottingham's* Office.

Mr. Soll. Gen. My Lord, those Papers that you markt were they the same Papers that my Lord President brought, and delivered in at the Council?

L. Syd. Yes, the very same.

Jury-man. My Lord, shall we have leave to ask my Lord *Sydney* a Question?

L. C. J. Holt. Ay; What is it?

Jury-man. Pray, my Lord, did the Pacquet come to you Sealed? That which was taken from this Gentleman, was it Sealed when it came to you?

Mr. Soll. Gen. No, it had been opened by my Lord *Nottingham*, and my Lord President.

L. C. J. Holt. Sir, you are under a Misapprehension of the Matter. My Lord *Nottingham* after he had opened them sealed them up again, and delivered them to Capt. *Billog*; Capt. *Billog* carried them sealed to my Lord President, my Lord President opens them and lays them up, they were never out of his Possession, he carries them to the King, the King read some of them in his Lordship's presence, he delivers them at the Cabinet Council to my Lord *Sydney*, and my Lord *Sydney* swears he read them there, markt them, and, when he had done, put them in his Pocket.

Mr. Soll. Gen. My Lord *Sydney*, will your Lordship be pleased to look upon these Papers, and see if these be part of them.

L. Syd. I know them very well, I have read them Ten times, I markt them at the Council, and that is my Mark.

Mr. Soll. Gen. Pray, my Lord, are those Two Papers that you have in your Hand, Two of those Papers that my Lord President delivered at the Cabinet?

L. Syd. Yes, that they are.

Mr. Soll. Gen. My Lord President, will you please to look upon them?

(Which his Lordship did.)

L. Pres. These are Two of the same Papers that Capt. *Billog* brought me.

Mr. Soll. Gen. Now we shall desire to have them read, but give me leave to observe to you, That one of them is a Copy of the other; only in the one some Words are written short, that are written out at length in the other.

Jury-man. Pray, my Lord, I desire to ask, Are they of the same Hand?

Mr. Soll. Gen. No, they are of different Hands.

Mr. S. Thomps. Pray, Gentlemen of the Jury, take notice, and observe these Papers, for there is a great deal of Matter of great Moment in them; for you cannot expect the King's Council should repeat every Thing that is in so many Papers as we shall read; it is impossible we should take notice of all.

L. C. J. Holt. Or I either; therefore pray, Gentlemen, observe what is read, for I shall be able only just to state the Evidence to you.

Mr. Ashton. My Lord, I hear them say one of those Papers is a Copy of the other; I desire the Original may be read, and not the Copy.

Mr. S. Thomps. Who knows which is the Original?

L. C. J. Holt. Look you, Mr. Ashton, we don't know which is the Original, or which is the Copy, they are both found together, they contain the same Matter and the same Words; It may be you can tell which is the Original.

Mr. S. Thomps. You may look upon them your self, and tell us which is the Original if you please.

Mr. Ashton. That is very well observed, Sir. That is throwing Water upon a dead Mouse. Then I desire both of them may be read.

Mr. Soll. Gen. Indeed, Mr. Ashton, I think there is a particular Reason why you should not desire to have the Copy read, because least it should prove to be your own Hand writing.

Mr. Ashton. Pray let both be read.

Cl. of Peace reads. The result of a Conference——

Mr. S. Trem. Pray attend, for this is the Scheme of the whole Work.

Cl. of Peace reads. The result of a Conference, &c.

And the other was likewise read as before.

L. C. J. Pollex. Pray let Mr. Ashton see that Paper.

The Paper was handed to Mr. Ashton, being one of the Papers before read.

L. C. J. Pollex. Mr. Ashton, look upon that same Paper a little, satisfy your own Mind a little whose Hand that Paper is in. Look upon it well, I would have you be satisfied about it. Look particularly upon the latter part of it.

Mr. Ashton. My Lord, I have lookt upon it, I have seen it all.

L. C. J. Pollex. Come then give it me back again, and think of it a little in your own Heart.

Mr. Soll. Gen. My Lord Sydney, pray, will your Lordship look upon this Paper.

L. Syd. This is one of the Papers that was among the rest, delivered by my Lord President at the Cabinet.

Mr. Soll. Gen. Pray shew it my Lord President; What says your Lordship to it?

L. Pres. This was one of the Papers I gave my Lord Sydney, and was brought me in the Pacquet by Capt. Billop.

Cl. of Peace reads. That the King would return with a Design of making an entire Conquest of his People——

Mr. S. Thomps. Pray, my Lord, give me leave, before it be read, to acquaint the Jury what this is, that they may make the better Observations upon it. This, Gentlemen, is the Heads of a Declaration that was intended to be Published when the French came; and you will see what it is when it is read. Pray observe it.

Cl. of Peace reads. That the King will return, &c.

As before.

Mr. S. Trem. The next Paper is an Account which they had taken with them of the Force of the Kingdom, of the Ships, particularly how many in Number, what Rates, what were in Repair, what out of Repair, and what a Building. Pray shew it my Lord Sydney.

L. Syd. This is another of the Papers that I received from my Lord President, and Markt at the Cabinet.

Mr. S. Thomps. Then shew it my Lord President.

L. Pres. This is one of the Papers that were in the Pacquet, that Capt. Billop brought me.

Cl. of Peace reads.

Mr. Soll. Gen. Pray, my Lord Sydney, look upon these Papers, and tell where your Lordship had them.

The

The Papers was shewn both to the Lord President and the Lord Sydney.

L. C. J. Holt. My Lord President says he received them from Capt. Billop, and gave them to my Lord Sydney; and my Lord Sydney says they are the same he received from my Lord President.

Jury-man. Are those the Papers that have been read, my Lord?

Mr. J. Eyres. No, but they both say the same as to those that have been read.

Jury-man. They pray, my Lord, What are those Papers that are going to be read?

Mr. S. Trem. These are Two Letters, Gentlemen, that are written, giving an account how the Affairs in England stood, with reference to the Persons Concerns that they are written to; and there is a particular Passage in one of them, How their young Master prevailed in its Interest, and got ground of his Adversaries. If you observe them, you will easily understand what is meant by them.

Cl. of Peace reads. This is directed for Mr. Redding, New-years Eve, Though the Bearer of this, &c. *As before.*

Cl. of Peace reads. This is directed for Mrs. Redding. As it is impossible for me to express, &c. *As before.*

Mr. Soll. Gen. Now we desire my Lord Sydney and my Lord President would look upon these Papers.

Jury-man. My Lord, I desire the former part of that last Letter may be read again. *Which was done.*

L. Syd. These I had from my Lord President.

L. Pres. And I had them out of the Pacquet that Capt. Billop brought me.

Mr. S. Trem. If your Lordship please I will open them to the Jury. Here are Two Letters, in one of them there is an Account given that they were heartily sorry they were disappointed, and that they had not been here already, but hoped they will be here as fast as they can; that the Match was concluded, the Settlement prepared, and no doubt but the Daughters Portion would be well Secured, if they would come quickly.

Cl. of Peace reads. Dec. 31. 1690. 'Tis directed for Mrs. Charlton. I must not let this Bearer depart Madam, &c. *As before.*

Mr. S. Trem. That Letter tells you that the Daughters Portion would be well Secured; this that we now produce will tell you, how it shall be Raised. It says, the old Tenants are weary of their Master, and a little Matter, if he would but appear in Westminster-hall, would redeem the Estate; and the Cause might be brought to a final hearing before the end of Easter Term, if they made haste, and it were well Solicited.

Cl. of Peace reads. This is directed for Mr. Jackson. Dec. 31. 1690. The Bearer hereof will give you, &c. *As before.*

Mr. Soll. Gen. We must desire my Lord President and my Lord Sydney would be pleased to look upon these Papers.

L. Pres. I received these from Capt. Billop in the Pacquet, and gave it to my Lord Sydney.

L. Syd. These are some of the Papers I had from my Lord President.

Mr. S. Trem. The Letters we now produce to be read seem to be written by a Man that was involved in a great Trade, that had great Projects in his Head, and drawn many Schemes in his own Brain how to carry on the Trade, he directed what sort of Wares he would have sent, what was proper for their Markets, that he had got many a new Customer, and hoped they should not be disoblged; that all must be sent before the First of March, at least before the Tenth, or the whole Summer Profits would be lost.

Cl. of Peace reads. 31 Dec.

L. C. J. Holt. Read the Superscription first.

Cl. of Peace. There is no Subscription, my Lord, at all.

L. C. J. Holt. Well, read on.

Cl. of Peace reads. 31 Dec. The Interruption of the former Correspondence had a very ill Effect many ways, &c. *As before.*

Mr. S. Trem.

Mr. S. Trem. Gentlemen, doubting that that Letter might not be pressing enough, here is another to the same effect.

Cl. of Peace reads. Dec. 31. It is a Presumption incident to those that are any ways upon the Spot, &c. *As before.*

Mr. S. Trem. One would imagine this Letter were written by some Person that used to talk Cant, that he is so ready at it.

Mr. Soll. Gen. Pray, my Lord President, what says your Lordship to these Papers?

L. Pres. These Two Letters were in the same Bundle that Capt. Billop delivered to me, and I delivered them to my Lord Sydney.

L. Syd. These are some of the Papers I had from my L. President, at the Cabinet.

Mr. S. Trem. That first of these Papers is a Letter wherein the Party gives an Account of his own Condition here, and how he would Venture to bring about what was desired.

Cl. of Peace reads. 31 Dec. 1690. Was my Condition more desperate and uneasy than it is, &c. *As before.*

Mr. S. Trem. This little Paper was inclosed in the other.

Cl. of Peace reads. I beg, &c. *As before.*

Mr. S. Trem. Now shew this Paper to my Lord President, and my Lord Sydney. *Which was done.*

L. C. J. Holt. My Lord President, and my Lord Sydney, swears the same for this Paper, as for the rest.

Mr. S. Trem. This Paper shews they were going about a Deed that they did not desire to have known; 'tis a Key how to explain their Meaning.

Cl. of Peace reads. For Mrs. Anne Russel, &c. *As before.*

Then Three other Papers were shewn to and sworn by the Lord President, and the Lord Sydney, to be part of the same Papers.

Mr. S. Trem. The Papers that we now are going to read are these. Gentlemen, here is a Letter of Recommendation in behalf of one Mr. Orbinet, which is a Name they pretended of some Person that was at Paris, or to go there; and 'tis written by one Mr. Delliveré to his Correspondent there, and he tells him, the Bearer had Something to disclose to him, and that he might have an entire Confidence in him: But the Letter of Recommendation alone, without a Sum of Money, they reckoned would meet with a bad Welcome in France, and therefore they take 500 l. with them, and here are Two Bills to pay it.

Then Mr. Humphrey Levermere was sworn to interpret them, being in French, (which he did) and read them as in the former Tryal.

Jury-man. Were these Bills found in that Pacquet?

Mr. S. Trem. Yes, Yes; they are sworn to by both those Lords.

Mr. Soll. Gen. Now, pray my Lord, will you please to look upon these Papers.

The Lord President, and Lord Sydney both, testified, That those were part of the Papers.

Mr. S. Thomp. This next Paper that we give in Evidence is very short. It seems to be a Table for the Memory of the Person that was to carry it; They are short Heads for the Memory, consisting of a great many Particulars; You will make your Observations upon them, and what Judgment you think fit of them.

Mr. S. Trem. My Lord, I desire to take Notice of these Papers that we are now going to read; you will observe these Things in them, which are worth your remarking, Gentlemen; because these Papers that we now read to you are of themselves sufficient to prove every Article in the Indictment: For these Papers give an Account of the Ships, their Number and Force, the Forts of the Kingdom, how they are Manned, how they may be Surprized, where the French Fleet should Fight, where they should Assault us, how they should hinder the Dutch and English Fleets from Joyning, what Number of Soldiers would be sufficient, and what Number of Ships in Newcastle to plague the City of London, how to manage this whole Affair; and it gives Characters of the Clergy of England, and particularly of the City of London, and says, they are the Worst of Men.

Mr. S. Thomp.

Mr. Serj. *Thompson*. No Brother, 'tis the worst of all the Clergy.

L. C. J. *Holt*. Come, read them.

Clerk of the Peace reads. Lady D. 2000 l. &c. (as before.)

The Jury desired to see the last Papers, and had them delivered to them.

Mr. *Soll. Gen.* Then we rest it here, to see what the Prisoner will say to it.

L. C. J. *Holt*. Mr. *Ashton*, the Kings Council have done their Evidence for the King, what have you to say for your self?

Mr. *Ashton*. My Lord, I humbly desire to know of your Lordship, whether all the Letters are read, that were read at the Tryal of my Lord *Preston*?

L. C. J. *Holt*. What is that material to you, whether they be or not?

Mr. *Ashton*. My Lord, I am informed that there were several Letters, that particularly name my Lord, implying him to be the Bearer, and I desire those Letters may be read.

Mr. Serj. *Thompson*. With all my heart, if you do desire it, it shall be read, we do not think it material.

Mr. *Ashton*. I do desire it, it will be plain, I believe, from thence, that I could know nothing at all of this matter; and if your Lordship please, my Lord, to observe it, three or four of these last Papers, as Mr. Serj. *Tremain* observed, were the Ground-work of all this Business, which refers to *Portsmouth* and *South-Sea*, and some other Papers; these I think, with Submission, were proved to be the Hand of another Gentleman, and I desire it may be proved again to the Jury, by which I think it will be plain, that they do not affect me.

L. C. J. *Holt*. Look you, Mr. *Ashton*, it is not proved to be your Hand, nor pretended to be so.

Mr. *Ashton*. But positively proved to be another's Hand, as I am informed, and 'tis that which Mr. Serj. *Tremain* observed was the Ground-work for carrying on the whole Design, I presume the Witnesses are in Court that proved it then, and I hope your Lordship will be so kind as to let it be proved now; they did prove it to be another Persons Hand upon a Tryal not long ago.

L. C. J. *Holt*. If you have a mind to call any Witnesses to prove the Papers to be another's Hand, you may call them.

Mr. *Ashton*. I hope the King's Witnesses are now in Court that did prove them to be his Hand Writing, and they'll prove it now I suppose.

L. C. J. *Holt*. If you have a mind you may call them, they have not a mind to produce them for the King.

Mr. *Ashton*. I know not where they are my Lord.

Pray Mr. *Aaron Smith*, be you so kind as to call them.

L. C. J. *Polexfen*. You should have sent and Subpena'd them to be here.

Mr. *Ashton*. Mr. *Warr* is there, my Lord, I desire he may be ask'd the Question; and I believe Mr. *Blane* is in the Court, pray let him be ask'd.

L. C. J. *Holt*. Mr. *Warr*, you are called by the Prisoner, as a Witness, to prove my Lord *Preston*'s Hand.

Mr. *Ashton*, Mr. *Warr*, Mr. *Townsend* and Mr. *Blane*, I desire may be all ask'd.

L. C. J. *Holt*. Mr. *Ashton*, you have insisted upon it, that these Papers were my Lord *Preston*'s own Writing.

Mr. *Ashton*. My Lord, I do insist upon it, to know whether they were not proved to be his hand. Mr. Serj. *Tremain*. Yes, they were so, 'tis agreed.

Mr. Serj. *Tompson*. We do grant the King's Witnesses proved, that they did believe them to be my Lord *Preston*'s Hand.

L. C. J. *Holt*. The King's Council do admit, that these three last Papers were not your Hand, but they admit them to be my Lord *Preston*'s Hand, and 'tis very well done of them to admit it; so that now it is to be taken for granted, that those three last Papers were my Lord *Preston*'s Hand.

Mr. *Ashton*. Then, my Lord, I desire the Substance of those Papers may be the more press'd upon the Jury, because Mr. Serj. *Tremain* observed that the Design in the Scheme of it lay in those Papers, and they are not my Hand, but another's; and for what is in them, I know nothing, nor am concern'd.

L. C. J. Holt. What have you farther to say, Sir?

Mr. Sol. Gen. You mentioned another Letter which you did desire should be read.

Mr. Ashton. Ah! two or three where my Lord is named.

Mr. Sol. Gen. This is the Letter I suppose you mean, the Clerk shall read it.

Clerk of the Peace reads. *Sir, I vow to you, I do not repine at having lost all for your sake, &c.* (as before)

Mr. Ashton. Gentlemen, I hope you will observe, in that Letter my Lord is called the Bearer; and it tells that he brings Papers with him, by which it is plain, that you cannot imagine I could know any thing of these Papers. And Gentlemen, it has not appeared by any Evidence that has been given, that I knew any thing more, than that they were unfortunately found upon me: But with Submission, I believe there is another Letter, if I am inform'd right, wherein my Lord is named, and called, my Lord the Bearer.

Mr. Sol. Gen. Sir, I do assure you now, we have, to my Observation, read every Letter, and every Paper, that was read on *Saturday*.

Mr. Ashton. **Mr. Solicitor,** I am satisfied, for I am confident you would not affirm it if it were otherwise.

L. C. J. Poxfen. There is not any Letter that says my Lord the Bearer, but my Lord will give you an account, so and so; the Bearer will tell you these and these things; will you have it read again? You shall if you will.

Mr. Ashton. I am unwilling to take up your Lordships time, unless the Jury desire to have it read again.

Jury-Man. Pray my Lord, when that Letter was read on *Saturday*, how was it construed by the Court? How did they take it then?

L. C. J. Holt. We did take it then, because my Lord was mentioned, that he might possibly be the Bearer.

L. C. J. Poxfen. It is very probable, and so it was understood then, that the Lord mentioned in the Letters was my Lord *Preston*, and so that my Lord was the Bearer that could give an account of the Countesses Condition; and in the beginning of those Papers that are of my Lords Hand, there is mentioned so much Money for the Lady D---- which is my Lady *Dorset* I suppose, that is there meant, and that writ that Letter.

Mr. Ashton. No, my Lady *Dorchester*.

L. C. J. Poxfen. *Dorchester*, I cry your mercy; and it is probable the same reason is a reason still to make it believed that my Lord *Preston* was meant.

Mr. Ashton. I think my Lord Chief Justice was pleased to observe, as I have been informed, in giving his Charge to the Jury, that these Papers, some of them naming my Lord, must be meant of my Lord *Preston*, there being no other Lord but he; and he likewise gave another reason, says he, they lay by my Lord's Seals that were produced, and therefore it was plain, they could not be *Ashton's* nor *Elliot's*.

L. C. J. Holt. No not so, but my Lord might be concern'd, because my Lord's Seals were there where the Papers were found.

Mr. Ashton. I am wrong inform'd if those were not the words my Lord Chief Justice *Poxfen* used.

L. C. J. Poxfen. What do you say were the words? if you will repeat them, I'll tell you as near as I can.

Mr. Ashton. Your Lordship seem'd to infer, that my Lord being nam'd, and the Bearer in the same Paper, that of Consequence that must be my Lord *Preston*, and the Papers must be his; and you did give another reason for it, to enforce it, that the same Man that saw me take them up, saw them lye by the Seals, which were proved to be my Lord *Preston's*, from whence your Lordship did say, it is plain they were my Lord *Preston's*, and that *Ashton* or *Elliot* could not be concerned in them.

L. C. J. Holt. You mistake that matter, sure there was not any such word said, for that Evidence that tended to convict my Lord *Preston*, did by no means tend to acquit you; the question then was, how far my Lord *Preston* was concerned; my Lord insisted upon it, says he, They were not taken from me but from *Mr. Ashton*; there the Question was not about you.

Mr. Ashton. I humbly hope, my Lord, you will forgive me for insisting upon these Matters, because I am for my Life.

L. C. J. Poxfen.

L. C. J. *Polexfen*. I would do you all the right I can, I assure you, Mr. *Ashton*; but certainly there was no such thing said as you have mentioned.

Mr. *Ashton*. My Lord, I do not question but you will do me right, and I thought so, when I chose the Jury out of the first that appeared, without challenging any.

L. C. J. *Holt*. Well Sir, pray go on to your Defence.

Mr. *Ashton*. My Lord, my own Defence will be very weak upon the whole, for I am very Illiterate and Unskill'd in the Laws, but where I do fail of taking Advantage, to observe what may be for my Advantage, I hope your Lordships will be so kind to me, as well as just (I may call it) to your selves, being upon your Oaths, as to take notice of it. My Lord in the first place —

Mr. Serj. *Tremain*. Before Mr. *Ashton* proceeds, I would observe one word in a Letter that has been read, which is one of these Papers, it says, *I say nothing of another Gentleman that takes opportunity to see those parts, but he has shewn a Zeal and Sincerity in the affair equal to most.*

Mr. Serj. *Thompson*. You hear, Gentlemen, that there is notice taken of another Person besides the Bearer.

Mr. *Ashton*. Pray, my Lord, is it any Consequence that I must be the Person that must be meant, or that I must know what the Contents of the Letters was? There was another besides me, and so it is not plain who was meant, or if I were the Man meant in this Letter, it must not therefore follow that I must know of it.

Mr. Serj. *Tremain*. I did not mention it as a Proof that you were the Person meant, but only to shew that there was another Person besides, my Lord, taken notice of in them.

L. C. J. *Holt*. I must confess, I think Mr. *Ashton* observes right, it does not concern him, for as well as he was there, there was another, and it is uncertain whether it relates to him or the other, and so it signifies nothing at all; that's my mind.

Pray go on, Mr. *Ashton*

Mr. *Ashton*. My Lord, upon the whole I have this to observe, first as to my business of going into *France*, I must ingenuously own it, though I protest to you I never own'd it nor named it to the Woman though she had sworn it, but yet I do now. My design was to go to *France*, and I had very great and good Reason for it, I think, I had endeavour'd all ways I could in the World to procure a Pass to go to *France*, 'tis very well known, I did business under Lieutenant-General *Worden* that died half a year ago, his Accounts are now depending, and such Accounts as may be prejudicial in some points to his Family to whom I have always own'd and must a great Obligation, and would be very glad upon all occasions to serve it, and all the Branches of it; this was not the whole nor the only design I had in going thither, but I had likewise some business of my own, I have a considerable Sum of Money owing me, if it be necessary to prove it, I can prove it by a Bond from a Person that is there; a great Sum it is, a very considerable one to me at least. And, my Lord, I did think if I did not go my self it was impossible for me to do any thing in that Affair, and that was the true and only Reason of my design in going to *France*, having been out of hopes of getting any other Convenience other-ways; this was not a Design just now formed, as if I were just now upon some Plot concerning the Publick, but it has been my design ever since Lieutenant-General *Worden* died, and he upon his Death-bed engag'd me to do it; and I once went down, hoping to have gone from *Dover*, and there I was apprehended and taken. And, my Lord, I have used all manner of Endeavours to go other ways, but they have always failed me, and this way I hoped would have taken: my Lord, I do own I did hire the Boat, and I did pay the Money, but with Submission, I think that is not any manner of Treasonable Act, my Lord; perhaps it is an ill Act, but it does not amount in least to Treason going to the King's Enemies, suppose I went upon that account, that is no manner of Treason in the World, carrying Papers to the King's Enemies, except it be proved that I was privy to them, and knew the Contents of them, if Lawyers inform me right, is not Treason; then what remains? 'Tis true, I must own the Papers were found upon me, and I be-

lieve

lieve there is no body that has heard the Evidence that has been given, but must readily conclude that I found them in the place where the Sea-man says I took them up; and besides, my Lord, there is not any manner of proof so much as aim'd at by the King's Council in all their Evidence, that I was privy to any one of these Papers; so that, my Lord, I think there is very little proved upon me at all; I had the misfortune to be taken in this Company that was going where these Papers were taken, it's true, but they have not attempted to prove that I was privy to or knew any thing of them at all, nor that I was more concern'd than that they were taken in my Stomach; this is all I have to observe upon the whole; as to the business of the Indictment there are great and grievous Aggravations in it, and such as I am not able to comprehend the meaning of, the Words confound me; and therefore I humbly desire your Lordship to tell me upon what Statute I am Indicted.

L. C. J. *Holt*. I'll tell you, Mr. *Ashton*, you are Indicted upon the 25th of *Edward* the Third, for conspiring, compassing and imagining the Death of the King and Queen, and for that purpose going into *France*, and endeavouring to incite the *French* King to invade the Kingdom, and telling him how he should do it, and letting him know in what State and Condition the Kingdom was, and how fit to be invaded.

M. *Ashton*. Pray, my Lord, is that at all proved upon me?

L. C. J. *Holt*. That is the Question that the Jury are to judge of upon the Evidence that has been given.

Mr. *Ashton*. As to that of compassing the Death of the King and Queen, I am ignorant of dealings in Law; but I conceive there are several Species of Treason mentioned in that Act of the 25 of *Edward* III. and as to the imagining the Death of the King, that's only to be proved by some Overt Act: Now I think nothing at all has been proved of any open Act conducing to prove the imaginary or compassing the Death of the King or Queen, no manner of Consultation or Treasonable Act at all, and therefore, my Lord, I do not see that there is any great matter that is proved upon me, and I hope you are of that Opinion too.

L. C. J. *Holt*. Mr. *Ashton*, that you may not go away with a Mistake, any that design'd the Deposition of the King and Queen, and the Invasion of the Kingdom, which is proved by any Overt Act it is sufficient to prove that they compass and imagine the Death of the King and Queen.

Mr. *Ashton*. I presume it may be so, I believe that may be the Construction of the Law.

L. C. J. *Holt*. And I make no question but those that you have consulted with have told you as much.

Mr. *Ashton*. Truly as to Counsel my Tryal has been as hard as ever Man met withal.

L. C. J. *Holt*. Why do you say so, Mr. *Ashton*? the Court has not been hard upon you.

Mr. *Ashton*. My Lord, I do not complain of the Court, but as to the matter of time, I had notice by that Gentleman, Mr. *Bale*, to prepare for my Tryal, and that was on *Friday*, and not before.

L. C. J. *Polexfen*. *Friday* was Sevenight, you mean, I suppose.

Mr. *Ashton*. Yes, I do mean *Friday* was Sevenight I was then a close Prisoner, I had not the opportunity or liberty of seeing any Christian Soul, I spake to him then, and told him, Mr. *Bale*, this is very short notice; pray be so kind as to move my Lord that I may have Council; truly he was Civil enough, and said, he would do all he could; says he, will you give me the Names of your Council? so I gave him the Names of four, and of a Solicitor; but I never heard more of him in the matter: I did with all my Industry and Skill give my Friends notice, but I was under great difficulty, for I had not the liberty of Pen, Ink, nor Paper, nor a Man to send upon a Message on *Saturday*; I gave my Friends notice of it, upon *Sunday*, which was no very good Day for business, they apply'd themselves to my Lord *Sidney*, whose Favour and Kindness I shall always own as long as I live, he gave me all the

dispatch

dispatch possible, and got me an Order to see my Wife that day, though it was *Sunday*; the next day I made Application to have my Council come to me, that was *Monday*, he with the same readiness procured that, but it was *Tuesday* in the Afternoon before I could see any living Soul but my Wife and some of the Council that I desired would not readily come to me, and it was *Wednesday* before I did see any body of them, and so I had but *Wednesday* and *Thursday* to consult with them in. On *Friday* I was brought here, and I endeavour'd to procure a Copy of the Pannel, that I might inform my self of the Characters of the Men that were to be my Jury; and my Lord, I would desire you to give me leave to clear one Point, which through Inadvertency slip't from me about the time that I desir'd to send to enquire about the Jury. I did not mean as was apprehended, to send to them to take them off, but I only meant to enquire after their Characters; this was done upon *Friday*; I had not a Copy of the Pannel till last *Friday*, when we were Arraigned in Court, it was Two of the Clock before the Pannel was given us, it was between Three and Four when we came to *Newgate*; we were to come upon our Tryal the next Morning by Eight of the Clock; so that before the Copies could be transcribed for us, there were left but six Hours for us to enquire into the Morals of so many Men, of whom some liv'd eight, some ten, some fifteen Miles out of Town; for my part I was not able to enquire after any one, and that your Lordship may think by my taking the first Twelve that appeared, and believing my self Innocent of this matter, I resolved to put my self upon my Tryal by any twelve indifferent *English*-Men; I only beg if I have omitted any thing in reference to my self, or misbehaved my self, with respect to the Bench, that you would please to set me right, and consider that I stand here for my Life; and to grant me your pardon for any thing wherein I have offended your Lordships, to whom, and to the Jury, I refer my Cause; only I beg leave to call two or three Witnesses, I know it hath been allowed before in such cases, to give some short account of my Life and Conversation, because it hath been reflected upon me that I was a Papist, because I designed to go into *France*; but I believe there is not any Man, whose Devotion to the Protestant Religion established by Law, is greater than mine hath been, or to whom that Religion is Dearer than to my self.

L. C. J. *Holt*. You are not accused of any such thing, no body pretends you are a Papist, but call whom you will.

Mr. *Ashton*. Pray call Dr. *Bursh*, Dr. *Lake*, Dr. *Fitz-Williams* and Dr. *Davenant*. There is Dr. *Fitz-Williams*; I beg the Favour of you Dr. *Fitz-Williams* to give the Court an account of your Acquaintance with me, and particularly about my Religion.

Dr. *Fitz-Williams*. Will your Lordship give me leave, my Lord?

L. C. J. *Holt*. Ah! Come, what do you know of Mr. *Ashton*?

Dr. *Fitz-Williams*. I suppose, my Lord, that he calls me in as a Witness to his Religion, and to his Morality, I think so; with my Lord's Permission I will give the truest Testimony I can: I have known him some time, he used to be frequently at the Service of the Church in the Protestant part of the Family, at St. *James's*, where I was Chaplain; during the time I was there, I observed him to be a frequent Receiver of the Holy Communion; and as far as I could observe, lived answerable to what he professed to be, a Sincere Member of the Church of *England*, and a Serious Christian for his Sincerity and Zeal for the Protestant Religion: I can give this Instance, he had an Aunt that had a Relation to that Family, one Mrs. *Du-pee*, whom he thought did warp a little towards Popery, and he desired me, about five Years ago, to have recourse to her, and desired to know if she were dissatisfied with any Point of Religion in the Church of *England*; in Communion with which she lived visibly, and I would do my endeavour to satisfy her, as I do not doubt but I could. She was desirous to know who was the Person that sent me: I told her I came of my own Head in the greatest part; but I suppress'd the Interposition of Mr. *Ashton* for several Reasons, and told her, I had great Suspicion of her inclining the other way; and I had great reason for it, because of her Husband, who was a Papist, and the great Resort of Popish Priests to their Lodgings. She told me then, she was satisfied in every thing, and if she had any Dissatisfaction she would send for me and give me an account. Some Months after I came to St. *James's* to wait, and observing her to be absent more than usually before, from Prayers in the Chappel, I went to her, and asked her the

reason: She told me, it was because she was making some Linnen for her Master King James, which was to be made in haste: But she then design'd to go for Flanders quickly; and Mr. Ashton about that time, or two or three days after, told me his Aunt was gone to France, and spoke it with very great concern, and that he believed, under the Pretence of calling over her Younger Son, she was gone to declare her self a Papist, and he was very much troubled at it. This I know for his Zeal for the Protestant Religion.

L. C. J. Holt. When was this, Doctor?

Dr. Fitz-Williams. This was, my Lord, about five Years ago.

Mr. Ashton. That is, as to the business of my Aunt I suppose, I know not how he comes to mention it, but as to my Life and Morals, you can give a later account.

Dr. Fitz-Williams. My Lord, I have Administred the Sacrament to him.

L. C. J. Holt. What Questions do you farther ask him, Mr. Ashton? or can you say any more, Doctor?

Dr. Fitz-Williams. No, my Lord, I can say no more, but that he received the Sacrament about half a Year ago.

Mr. Serj. Thompson. We have not objected any thing, as to his Religion, at all.

Mr. Ashton. But I know it has been a Reflection that has gone about of me, that I am a Papist, therefore I beg leave to prove my Religion and Conversation.

L. C. J. Holt. Nay, call whom you will, you shall not be hindered, take what Course you please. Mr. Serj. Tremain. Pray, Doctor, you say he has received the Sacrament lately; when was that, and where?

Dr. Fitz-Williams. It was at Ely Chappel within this six or seven Months.

L. C. J. Polexfen. Have you been lately conversant with him?

Dr. Fitz-Williams. Truly, my Lord, I have not been very lately.

L. C. J. Polexfen. Pray what have you heard him say, concerning his Affection to King William and Queen Mary?

Dr. Fitz-Williams. I do not remember any thing at all of that.

L. C. J. Polexfen. Have you heard him say any thing to the contrary?

Dr. Fitz-Williams. No, I cannot remember that.

Mr. Serj. Tremain. What have you heard him say about his Affection to K. James?

L. C. J. Holt. Do not ask him that, there may be a Snare in that Question.

Jury-M. You say, Doctor, that he received the Sacrament six Months ago in Ely Chappel; Did you deliver the Sacrament to him there?

Dr. Fitz-Williams. No, I did not.

Jury-M. Pray, Doctor, were the Prayers that were used at that time altered, as they are now in the Common-Prayer-Book?

Dr. Fitz-Williams. I cannot say they were.

L. C. J. Polexfen. Did you ever see him Drink King James's Health?

Dr. Fitz-Williams. I do not use to Drink Healths, I came here only to do an Office of Justice and Kindness to Mr. Ashton, to testify about his Religion and Conversation.

Mr. Serj. Tremain. But answer the Question, Did you ever see him drink K. James's Health?

Dr. Fitz-Williams. I cannot remember I ever did.

Jury-M. Was King William and Queen Mary Pray'd for in those Prayers?

Dr. Fitz-Williams. I cannot say they were.

Mr. Just. Eyres. But the Jury-M. Question was, whether King William and Queen Mary were Pray'd for? and whether the Prayers were as they are now altered?

Dr. Fitz-Williams. My Lord, I say I don't remember there was any Names mentioned, as the Prayers are now altered. Mr. Serj. Tremain. That's very well.

Dr. Fitz-Williams. I did neither read the Prayers, Sir, nor Administer the Communion at that time.

L. C. J. Polexfen. But you were not at the Prayers as they are now altered, I perceive.

Dr. Fitz-Williams. Yes, I have, several times.

Mr. Serj. Thompson. Not with that Gentleman, Mr. Ashton.

Dr. Fitz-Williams. But I have been an hundred times at the Prayers as they are now altered. Mr. Ashton. I desire Dr. Lake, who is there upon the Bench, that he may be asked what he knows of me.

Mr. Serj. Tremain. But I have one question to ask of Dr. Fitz-Williams before he goes.

L. C. J. Holt. What will you ask him?

Mr. Serj. Tremain. I would ask you, Sir, one question, Have you taken the Oath to this King and Queen?

Dr. Fitz-

Dr. Fitz-Williams. No, I have not, Sir, that's my Unhappiness, but I know how to submit and live peaceably under them.

Mr. Ashton. But there is one *Dr. Lake* that has taken them, he'll give you an account what he knows of me.

Dr. Fitz-Williams. If any one can say I have done or acted any thing against the Government, I will readily submit to be punished for it.

L. C. J. Holt. Well, *Dr. Lake*, what say you?

Dr. Lake. My Lord, I have known *Mr. Ashton* above these sixteen Years, we liv'd together in the same Family several of them; I always observed him to be a Person of exemplary Piety and singular Devotion; he duly came to the Prayers of the Church twice a day, and to the Sacrament once a Month; he has taken occasion, that I know several times, both at *St. James's* and at *Edinburgh*, to testify his Zeal against Popery; and I am apt to think, that he has suffered sometimes for doing so.

Mr. Ashton. *Dr. Bursb.* Pray, as to my Religion, I beg you to give an account what you know of me, particularly something you may remember of me, of my perhaps over-heat against Popery.

Dr. Bursb. My Lord, I have long known *Mr. Ashton*, the Prisoner at the Bar, and till within these two years frequently conversed with him; and while I did so, I believed him a good Protestant, and I have so many Instances of it, and particularly before some upon whom his Fortune depended; but as to any thing of late, I can say nothing, because our Conversation has ceased.

Mr. Serj. Thompson. *Dr. Bursb.* have you known any thing of *Mr. Ashton's* Conversation for two years past? *Dr. Bursb.* No, Sir.

L. C. J. Holt. Have you any thing more, *Mr. Ashton*?

Mr. Ashton. No, my Lord, I have nothing more, unless your Lordship desire any thing more of this Nature. *L. C. J. Holt.* Call whom you will.

Mr. Ashton. Here is one *Mr. Tomlinson.* *L. C. J. Holt.* Come, what say you, Sir?

Mr. Tomlinson. My Lord, I waited upon Major Gen. *Worden* when he was Sick, and there read the Prayers of the Church, and *Mr. Ashton* was a constant Attender upon the Publick Prayers at the Visitation of the Sick, and was very Devout; that's all I can say. *L. C. J. Holt.* When was this? *Mr. Tomlinson.* It was in the Sickness of Major Gen. *Worden.* *L. C. J. Holt.* How long ago was that?

Mr. Tomlinson. It was about half a year ago.

L. C. J. Pollexfen. Were those Prayers as they are altered now or not?

Mr. Tomlinson. It was only the Visitation of the Sick, and the Collect for the Morning and Collect for the Evening, because the General's Sickness was such, that he could not bear long Prayers. *L. C. J. Holt.* Sir, have you been acquainted with the Prisoner any time? *Mr. Tomlinson.* About eight Months.

L. C. J. Holt. Have you any more Witnesses, *Mr. Ashton*? *Mr. Ashton.* No, my Lord.

L. C. J. Holt. Then I would have you to answer me this one thing; why were you so desirous, and used such Importunity, that the Papers should be thrown over Board.

Mr. Ashton. My Lord, that is a Point I ought to have spoke to, to clear my self.

L. C. J. Holt. It seems material, and I would not have it forgot, if you can answer it.

Mr. Ashton. I humbly thank your Lordship, and whatsoe'er my Fate is, I cannot but own I have had a fair Tryal for my Life, and I thank your Lordship for putting me in mind.

L. C. J. Holt. And take this other thing with it, why did you desire Captain *Billot* to go along with you where you were going?

Mr. Ashton. He has Sworn it, my Lord, that I did so, but as I hope for Salvation, if I were to dye immediately, I do not know that I spoke to him of any such thing; how was it possible that I should prevail with him? or how was it likely that I should force him to go along with us, when he had about twelve or fourteen Men with him Armed, and we unarm'd?

L. C. J. Holt. Nay, it was not Forcing; it was but Perswading him to go.

Mr. Ashton. My Lord, I do not know any thing of it, I'll assure you; but as for endeavouring to perswade him to throw the Packet over-board, I must own I did endeavour to perswade him to it; and I do presume there is no body in Court, that had been engaged with a Person so Unfortunate, that would not have done the same thing for any common Friend, not knowing what the Contents of those Papers were, seeing them in that Posture, especially when I saw some body else so near me, so uneasie and concern'd to have them seen.

L. C. J. Holt.

L.C.J. Holt. Then, *Mr. Ashton*, there's another thing which you open'd, which I would have you prove; you say you were to go into *France* upon the Affairs of *Col. Worden's* Family; first you say *Col. Worden* had a great account to make up; how will you make that out?

Mr. Ashton. My Lord, if your Lordship please, I will prove here in Court, though it is a sort of surprize upon me; that there is a great Account depending, I believe I may appeal to *Mr. Solicitor* himself, who knows that there is a Petition in the House of Commons, now depending, from the Queens Tradesmen and Debtors, whom she owed 68000 *l.* she did Assign the Arrears of some growing Rents for the Satisfaction of this Debt; but the King and Government have not thought fit to let it be applied to her use, or to the paying of those Debts she assign'd it to. Nay it has gone further, I can appeal to several Persons, there is one Man by chance in the Court, that I believe does know that I promised and engaged, and actually have paid a great part of this Debt; for believing that the Money was good upon the Assignment, I have actually paid some of these Men out of my own Pocket, and perhaps more than became me to venture; I think it may very well call my Discretion into question.

L. C. J. Holt. Who will you have called, *Mr. Ashton*?

Mr. Ashton. My Lord, here is *Mr. Spalding*,

L. C. J. Holt. That the late Queen does owe People Money, that I believe is true.

Mr. Ashton. Pray, *Mr. Spalding*, will you give the Court an account, whether there is any Money due from the Queen to you.

Mr. Spalding. My Lords, and you Gentlemen of the Jury, I have a Debt due to me from the late Queen, as her Coach-Harness-maker, it is 470 *l.* or something thereabouts, and *Mr. Ashton* has paid me part of this Debt; this I do own.

Mr. Ser. Tremain. Pray, how long have you been acquainted with *Mr. Ashton*, Sir?

Mr. Spalding. A dozen years, Sir. *Mr. Ser. Tremain.* Have you had any Intimacy with him? *Mr. Spalding.* He and I have been very well acquainted.

Mr. Serj. Tremain. Have you seen *Mr. Ashton* write at any time?

Mr. Spalding. Yes I have.

Mr. Serj. Tremain. Do you know his Hand?

Mr. Spalding. Yes, I think I do. *L.C.J. Polexfen.* Pray how came *Mr. Ashton* to pay you that part of your Money? *Mr. Spalding.* I press'd *Mr. Ashton*, and told him my Necessities, and he did advance me this Money.

L. C. J. Holt. How much did he advance? *Mr. Spalding.* Almost 400 *l.*

L.C.J. Polexfen. When was it he paid it you? *Mr. Spalding.* Almost a Year ago.

L.C.J. Holt. Did he pay it out of his own Pocket? *Mr. Spalding.* I believe so.

L. C. J. Holt. I believe so; or was it Money that he had returned to him?

Mr. Spalding. I believe it was out of his own Pocket, my Lord.

L. C. J. Holt. Why do you believe so? *Mr. Spalding.* Truly I believe it was out of his own Pocket. *L. C. J. Polexfen.* Pray who was to repay him?

Mr. Spalding. About that very time we were Petitioning the House of Commons, that we might have our Debts secured, and our Money out of the Arrears of Rents due to the late Queen, according to her Assignment; and we so far press'd the matter, that there was a Clause inserted into the Bill for the securing of our Debt; but upon the next day, or the day following, the Parliament was Prorogu'd.

L. C. J. Polexfen. Which way did he expect to be repaid?

Mr. Spalding. I'll tell you which way, I suppose, my Lord.

L.C.J. Polexfen. Did he not tell you which way? *Mr. Spald.* No, he never told me.

L. C. J. Polexfen. *Mr. Ashton*, did you never tell him how you should be repaid?

Mr. Ashton. My Lord, I hoped to be repaid, and concluded I should, out of the Arrears of Rent in the Tenants Hands.

L. C. J. Holt. But you were very kind to pay Money out of your own Pocket upon such Hopes. *Mr. Serj. Tremain.* Pray Sir will you look upon that Paper; do you know the Hand? *Mr. Spalding.* No, Sir, I do not.

L. C. J. Holt. I suppose he did compound with you.

L. C. J. Polexfen. This does shew an extraordinary kindness towards some sort of People.

Mr. Ashton. If he Discounted the Interest to the time that we reckoned it would be paid, you know that Prejudice would be to him, and not to me; it may indeed prove a Prejudice at last, if the Debt be not paid, because the Receipt is Conditional; if it be not allowed him, she shall Discount to me again.

L.C.J. Polexfen.

L. C. J. *Polexfen*. Was there no Money return'd over from the Queen's *K. James's* Q— n that was?

Mr. *Ashton*. No my Lord directly nor indirectly, nor one Penny, I believe they are not in a Condition to return Money.

L. C. J. *Holt*. Well Mr. *Ashton*, what have you more?

Mr. *Ashton*, I have nothing more to say, I submit my Cause to your Lordship.

L. C. J. *Polexfen*. Look you Mr. *Ashton*, as to some things that you have mentioned: First, there's no body questions but you are a Protestant; nay, as far as I discern, so they are all that are concern'd in this Matter. The whole design shows that they are all so careful of the Protestant Religion, that they design to restore and establish it by the King of *France*; so that it appears they are all Protestants concern'd in this Project.

Mr. *Ashton*. Pray, my Lord, who is it that proposes that?

L. C. J. *Polexfen*. The Papers that were carrying to *France*, Mr. *Ashton*, you have heard them read.

Mr. *Ashton*. I hope, my Lord, that no doubtful Insinuations or Suggestions are to effect me?

Mr. *S. Tremain*. There is a Gentleman that was called to by the Prisoner, it may be, he knows his Hand; pray Dr. *Fitz-Williams* look upon that Paper, you have been acquainted with him many years, do you know his Hand?

Dr. *F. Williams*. No Sir, I do not know his hand, I never did see him write, I cannot say I ever received a Letter from him.

Mr. *Ashton*. I entirely submit my Cause to your Lordship and the Jury.

L. C. J. *Holt*. Then you have done Mr. *Ashton*?

Mr. *Ashton*, Yes.

Mr. Just. *Eyres*. Mr. *Ashton*, because you cannot reply again upon my Lord Chief Justice, after he has summed up the Evidence. There's another thing that I would put you in mind of, that you may give an Answer to it. Captain *Billop* swears before the Papers were found upon you (and it seems to stick upon you) when he was informed by the Sea-men, that you had put something in your Bosom, and he ask'd you what it was, you said nothing but your Handkerchief? Now, if you knew not what was in the Papers, how came you to deny you had any thing in your Bosom?

Mr. *Ashton*, For the same Reason that I would have endeavoured to have had them thrown over-board, out of kindness to the Person with whom I hapned to be taken.

L. C. J. *Polexfen*. Consider Mr. *Ashton*, what a strange many of things you run upon: First, you would have it believed, That you had a mind to go into *France* upon your own account.

Mr. *Ashton*, I do own that.

L. C. J. *Polexfen*. Next then, That you hired a Vessel for you and *Ellyott*. Why would you have *Ellyott* to go with you into *France*?

Mr. *Ashton*, I would not have him, he desired the Favour of going.

L. C. J. *Holt*. Who desired my Lord *Preston* to go, or did he desire to go with you?

Mr. *Ashton*, I had not seen Mr. *Ellyott* of Three Months before I went in to the City to hire the Boat.

L. C. J. *Polexfen*. Why would you have my Lord *Preston* go with you?

Mr. *Ashton*, Why would I have my Lord *Preston* go with me? My Lord, I hop'd to have got my Passage free with a Person of my Lord's Quality.

L. C. J. *Holt*. Then you hired this Vessel for my Lord *Preston*?

Mr. *Ashton*, No my Lord.

L. C. J. *Holt*. Was it my Lord's Money or your own that you paid?

Mr. *Ashton*, The Money I paid, but how I should be repaid I cannot tell.
 L. C. J. *Holt*, Would you for your own Convenience pay a Hundred Pounds for a Boat to go to *France*, and yet hope to get your Passage free by taking in my Lord *Preston*.

Mr. *Ashton*, Truly my Lord, I cannot tell how it would have been, at the utmost, we could but have paid our share of it.

L. C. J. *Holt*, But you can tell me if you will, I ask you, how it was agreed among you?

Mr. *Ashton*, Truly my Lord, as I hope to be saved, I cannot tell.

L. C. J. *Holt*, Then there is another thing, why did you desire one of the Sea-men to say, That you were to go to *Flanders* and not to *France*, and give him Half a Crown to say so?

Mr. *Ashton*, I presume your Lordship knows that it is a Fault, though it be not a Treasonable Fault to go into *France*.

L. C. J. *Polexfen*, But Mr. *Ashton*, Truth is the thing that we are enquiring after; and, that is the thing we would have prevail, and I hope shall in all Cases: If you are not Guilty, we hope it will prevail of your side, if you are guilty we hope it will prevail on the other side. Now how likely is it that you should get into this same Company by chance without a Previous Agreement; you sent something from *Burdet's*, a Hamper and a Trunk, and afterwards some other things went from *Rigby's*, who is your Father-in-Law.

Mr. *Ashton*, No, There was nothing at all carried from Mr. *Rigby's*.

L. C. J. *Holt*, Yes, the Leather Bag, I believe, but another thing is this, That if it be possible you will do well to give an answer to, why did you enquire for a hiding Place? Why did you ask the Master of the Ship whether there was a convenient Place to hide in?

Mr. *Ashton*, As to that Matter, my Lord, I had heard of diverse People, that actually had Passes, and were going to *Flanders*, yet were stopp'd and brought to Town again. I believe my Lord *Nottingham* has bail'd many a One, and your Lordship knows it to be so, and has bailed many your self; and therefore I had great reason upon that account to endeavour secrecy as much as I could.

L. C. J. *Polexfen*, Mr. *Ashton*, as I remember, you said your self you were once before a going over, and had the Misfortune to be stoppt, now to venture the Second time without a Pass, was something strange, why had you not gone and applied your self to the Secretary for a Pass?

Mr. *Ashton*, I had made all the Application, I could to my Lord *Nottingham*, I cannot say in my own Name, because I was sure before hand, I should be denied; but I did by other hands endeavour to have got a Pass to have gone into *Flanders*, because it was of extraordinary consequence to me, as I tell your Lordship, to go quickly.

L. C. J. *Holt*, If you had such an occasion to go, and had made it out to the Secretary, and given Security, you might have got it sure.

L. C. J. *Pollexfen*, One word further, Why should you be so much concerned to have these Papers thrown Over-board?

Mr. *Ashton*, Perfectly out of Friendship, and had I been Travelling with your Lordship or any Man else that had been so unfortunate, I would have done the same.

L. C. J. *Pollexfen*, Well, Have you any more to say for your self.

Mr. *S. Tremain*, Mr. *Ashton*, call what Witnesses you will, and speak as long as you will for your self, you shall be heard at large.

Mr. *Ashton*, Mr. Serjeant, I thank you heartily, I have no more to say at present.

L. C. J. *Holt*, Then the King's Council desire to speak a Word to the Jury.
 Mr.

Mr. S. Thompson. May it please your Lordship, and you Gentlemen of the Jury : It falls out to be my Duty to Sum up the Evidence that has been given, I opened the Cause at the beginning to you, and I opened it at large, and many Particulars there were mentioned, and truly, I do not think we have failed in the Proof of any one ; I know you are Men of that Observation, that I need not, nor shall take upon me to repeat all the Particular Circumstances, but as near as I can, I shall touch upon the Heads of the Evidence, and do it with as equal regard to my Duty, and as much tenderness to the Prisoner as any one can do.

Gentlemen, In the First place, you see what the Indictment is for ; 'tis for a High-Treason of a very Great Nature, no less then the Deposing the King and Queen and Subverting this Government, and that by a *French* Power and Interest : If Inviting an Invasion, and giving an Account of the Weakness, and where the Strength of the Government lay, carrying Papers to Solicite the *French* to come and to incite this Nation into Rebellion, that so they might depose this King, and set up the late King *James* again. If these be High-Treason, as doubtless they are, then Gentlemen, how far forth the Prisoner at the Bar had a share in it, I must refer to you from what we have proved.

He is the Man, it seems, that made the first step, for you may remember it was proved that he met this Woman at *Burdet's* in the City, for the hiring of this Ship, and after Two or Three Meetings more, they come to a Conclusion, and 93 Guinies and Six Pence are deposited to make up a 100 *l.* which was the Price agreed upon, and that was actually paid by Mr. *Ashton*, this is Sworn to be so.

The next thing is, to what purpose this Money was paid, and the Ship hired, that is directly Sworn, it was to carry Mr. *Ashton* and Two or Three more of his Friends, not naming of them, and they were to go to *France*, one of the Witnesses says, to any Port in *France*, it was not directly declared to what Part. This I say was the purpose, for which the Money was paid, and the Vessel hired, and this was to carry you Mr. *Ashton* and Two or Three more Friends of his into *France*.

It is true, Mr. *Ellyott* afterwards did meet Mr. *Ashton*, and I think was by at the Bargain making, or at leastwise, when the Money is paid, I will not be positive in that, because I would do him no wrong, he being to make his Defence hereafter.

Mr. *Ashton*, No, he was not by, I made the Bargain my self.

Mr. S. Thompson. Then afterwards I remember one Circumstance when he hired this Ship, he was to hire a Ship that had a Place to hide in, and so he must needs know upon what Design, I say, by that he must needs know, that there was a Matter of great Moment which he was to transact, for he was to have such a Ship as he might hide in.

After this Ship was hired then they met in *Covent-Garden*, and there they take Order with the Man to go down with them to the Stairs, where the Water-men was called, indeed Mr. *Ashton* did part from them in the Way, but presently after came to them at the Stairs, and there came my Lord *Preston* and his Man, who together with *Ellyott*, that was there before, I think before, all Embark't in the Boat, and were carried to the Ship, and made all the hast away they could for *France*.

When they were there, and came to a Place of Danger, near a Ship of War, there was care taken, according as they had enquired of the Master of the Ship before, that they should be hid, and hid they were.

Afterwards, when they were past that Danger, when they came to the Block-House at *Graves-end*, there they thought fit to hide again, and did so, and there they concealed themselves, till they were surprized in that Place by Captain *Billop*.

My

My Lord, after such time as Captain *Billop* had surprized them, he tells you, how he came down after this Smack, you see what happened; my Lord *Preston* first came up, and after he had Search'd my Lord *Preston*, *Ellyott* came up and he was searcht, and after Mr. *Ashton* was once come up, he went down to fetch his Hat, and there was seen to take up this Bundle of Papers, and there the Papers upon search were found in Mr. *Ashton's* Breast.

This being so found in his Breast, you have heard what applications were made by this Gentleman, to get these Papers cast Over-board, and what Promises were made to the Captain, and what likelihood there was of making his Fortune, if he would go along with them or throw away the Pacquet.

You hear, Gentlemen, that after they came to *White-hall*, one of the Men Swear, that this Gentleman gave them Money, that they should say, they were not hired for *France*; but for *Flanders*.

These, Gentlemen, are the several Circumstances that do appear in this Case, which shew the mighty care and dilligence that was used to get those Papers suppressed that had been thus taken, or to get them again into their own Custody, and that is a Matter that shews how far this Gentleman was concerned in this Design, and taking all these things together, I think there can no greater Evidence be given, that Mr. *Ashton* was in this contrivance, that he was concerned in the Message, that he was to be sent, and all this business that was thus to be done, was as much Guilty, as my Lord *Preston*, who now stands convicted for it.

And the Court will tell you, Gentlemen, there are no accessorys, in Treason, all are Principals, though it be not actually proved, that this Gentleman did not know all these Papers what they were, yet in Case he hired a Ship for himself, and the Lord, whose Papers they were to go in, and take such notice of the Papers as to take care of them, to suppress and conceal them, that is an Evidence of his knowledge of the Importance of them, and if so; he will be equally Guilty of the High-Treason.

L. C. J. *Holt*. I doubt that.

Mr. S. *Thompson*. My Lord, I would not willingly press any thing further, then the Nature of the thing will bear.

L. C. J. *Holt*. Pray go on, Brother, we are only talking among our selves.

Mr. S. *Thompson*. The next thing is this, that is to be considered, that after such time as these Papers came to be laid open, what is it that appear among them? Truly I shall not take upon me to repeat so much as the substance, much less the Particulars of the several Papers, but, I must say, that there does appear to be a Formed Design of Subverting the Government, of deposing this King and Queen, and of bringing us all into War and Rebellion and Blood-shed, all this under a pretence of Establishing the Protestant Religion, and our Legal Government again (tho I can see no means they had to depend upon for it) but by a Popish Interest and a *French* Power, and how far that is possible or probable to promote such an end by such means, I leave to your consideration.

Gentlemen, you have heard all the Particular Papers read, here was the Resolution of a Consult. and Conference, where this Project was designed, here were Heads of a Declaration, that was to be framed to make the Credulous believe, what mighty things should be done upon their New Revolution, you see, what Letters have been produced, and cannot but easily apprehend what is the Import and Meaning of them. I resolve, as I said, not to mention the Particulars, but there is scarce One Line among them, but what is Treason, for it all tends to this Purpose and Design, to depose the King and alter the Present Government.

Now

Now upon the whole Matter, Gentlemen. what this Gentleman has said, I confess to me seems strange, he said indeed at first, that he had no Defence at all, or that which was very weak; and so it should seem, the Truth was, for you see what his Defence has been.

He says, that he went into *France*, that he owns that he was going thither, but what was it to do, it was to settle some Accounts with the Family of Collonel *Worden*, and to receive a Sum of Money that was owing to him by a Person there.

Gentlemen, if the Design had so much Innocency in it, certainly he might have had a Pass, at least, there was no need of hiring a Vessel at such an extravagant rate, there was no necessity of hiding in this secret manner, and no necessity of impossible suggestions, and preferring Great Rewards for the disposing of, and concealing, these Papers.

Gentlemen, You will remember many Particulars more, which have not slippt your Observation, I shall not take upon me to repeat them, but leave them to your consideration.

Only this, I must say, That this is a Treason of a very high Nature, a Treason to depose a King that has ventured all he had, even his Life has been in Danger, and his Blood has been spilt to Establish this Government, and our Religion, and our Laws, and yet it seems there are Men that think this may be better done by a Popish Interest and *French* Power, which I think no body of either Wisdom or Honesty can imagin, or will engage in, and therefore I leave it to your determination.

L. C. J. *Holt*. Gentlemen of the Jury, you understand, that Mr. *Ashton* is now Tryed for High Treason, it is mentioned in the Indictment, to be for Conspiring the Death, and Deposing of the King and Queen, and for that purpose, he did endeavour to go into *France*, and to carry divers Proposals in Writing, and several Memorials to shew how this Kingdom might be Invaded by the *French*.

To prove this, the Evidence that has been produced and given by the King's Council has been long, and consists of Two Parts, Witnesses, *Viva Voce*, that have told you how Mr. *Ashton* designed a Voyage to *France*, and that he hired a Ship for that purpose, and several Papers were taken out of his Bosom.

In the first place, the Witnesses tell you, that about the latter end of *December* last, Mr. *Ashton*, and Mr. *Ellyott* came to *Burdett's* House, where they met with Mrs. *Pratt*, and *Burdett* having before that spoken to her about a Smack that she called the *Thomas* and *Elizabeth*.

Then there was a Meeting appointed between her and Mr. *Ashton* at the *Wonder* Tavern, where they did Treat and Debate about the hire of it, afterwards they came back to *Burdett's* again, and there the Agreement was made betwixt the Woman and Mr. *Ashton*, the Prisoner at the Bar, to have a Hundred Pounds. Ninety Three Guinies and Six Pence was fetcht down by Mr. *Ashton* and told out, and deposited in the Hands of Mrs. *Burdett*, then there was a Six Pence broken, and one part Mrs. *Burdett* had, and the other part Mr. *Ashton* had, and when either the Master or Mistress *Pratt* should bring the part of the Six Pence that Mr. *Ashton* kept, to Mrs. *Burdett*, the Hundred Pounds was to be paid.

And this Agreement being made, 'tis positively Sworn, that they did ask, whether there was a Hiding Place in the Vessel? an Answer was made, There was one, and thereupon a Note was given, that the Master and Mistress *Pratt* should go to the *Seven-Stars* in *Covent-Garden*.

Upon *Wednesday* Night, they went there according to the Directions, where meets *Ashton* and *Ellyott*, but before that, there was a Boat hired at *Surrey-Stairs* to carry them down to the Ship through Bridge, over-against the *Tower*, but the Tide not serving till about Ten a Clock at Night, they had agreed with a Water-man for Half a Crown to carry them, and he was to stay till the Tide served. And when they went out from *Rigby's* they parted, *Ellyott* and the Master went together, Mr. *Ashton* did not go with them, but came near about the same time to *Surrey-Stairs*, where they took Water.

Being aboard, it was observed that all these Gentlemen were very timorous, and seemed to be much frightened at the sight of any Vessel, from which there was any apprehension of their being taken notice of; and, therefore they went down under the Quarter-Hatches, which is a Place very inconvenient for such Persons, where none could stand or sit upright, but they were forced to lye upon the Boards, or upon the Ballast.

It seems some intimation was given, that some Gentlemen had an intention to go into *France* to prosecute some Treasonable Design; And Captain *Billop* being employed to pursue them, which he did in a Pinnace, when he came near the Vessel where they were, he called to the Vessel, and under pretence of Pressing Sea-men, he went on Board; The Master of the Vessel said he had a Protection from the Admiralty; so that there was no cause for them to fear pressing, nor indeed was there any for Gentlemen to fear it, they being not lyable to be pressed.

When the Captain came near the Ship, and declared his intent of coming on board, these Gentlemen were gone under the Quarter-Hatches again, Captain *Billop* coming on board, and speaking about pressing of the Men, and saying, there was a Couple that would make good Seamen for the King; the Master shewed his Protection, and then the Captain said he would search further in the Ship, and so he did, and then he pulls up the Boards, and there he finds all these Gentlemen, who were called up one after another, and searcht by the Captain.

Gentlemen, There is one of the Witnesses tells you, that when they were come up, he saw a Pacquet that lay in this very place under the Quarter-Hatches, unto which was tyed a peice of Lead, which Mr. *Ashton* takes up and puts in his Bosom, with which the Captain being acquainted. Inquiry is made by him, what Mr. *Ashton* had there? Mr. *Ashton* said it was his Handkerchief, and nothing but that which he pulled out: But Captain *Billop* puts his hand in his Bosom between his Coat and his Body, and takes out the Pacquet, and carried these Gentlemen on Board the *George* Frigat, where they stayed till the Tyde served to bring them to *White-hall*.

But before they came on board the Frigat, Mr. *Ashton* was very importunate with him to throw this Pacquet into the Water; when they were on board the *George* Frigat, and in the Cabin alone, they continue their importunity. Now, say they, we have you here, and you are alone, pray will you throw this Pacquet over-board; and particularly, Mr. *Ashton* said it would do the Captain no good to injure so many Gentlemen, and Mr. *Ellyott* would have perwaded the Captain to take the Lead that was tyed to the Pacquet, and tie it to some Letters that was raken out of my Lord *Preston's* Pocket, and throw the Pacquet over-board; and then have informed the King and Council, that those Letters was the Pacquet taken out of *Ashton's* Bosom: But the Captain very honestly rejected all their Motions of that kind.

Truly, Gentlemen, my Memory will not serve me to repeat all the Particulars, but I question not your Notes will bring them to your Minds. Mr. *Ellyott*, it seems, was so mightily concerned at their being taken with these Papers, that when they shot *London-bridge*, he wisht the Bridge might have fallen upon them and knockt them on the Head; and, when they were got through, he wisht a Thunder-bolt would fall down into the Boat and sink them: That, indeed, was Mr. *Ellyott*, and not Mr. *Ashton*; but Mr. *Ashton* was as much concerned about disposing of the Pacquet as Mr. *Ellyott*.

At *White-hall* this Pacquet is opened, and you have several Papers produced in Evidence and read to you, you have heard what Evidence has been given, that these are the very Papers that were in the Pacquet thus taken.

First of all Captain *Billop* tells you he carried them to my Lord *Nottingham*, and that they lay therein his Office; he withdraw indeed while my Lord *Nottingham* examined my Lord *Preston*, but the Pacquet was not opened in the interim, but there was only a Paper stuck on the outside that my Lord had taken off before the Captain returned into the Room, and there the Pacquet remained intire. He says, my Lord *Nottingham* opened the Pacquet and put up all the Papers that were in the Pacquet in his presence into a Cover again, and sealed them up with his Seal. My Lord *Nottingham* says positively, he did put up all the Papers that were in the Pacquet again, all and no more, except the Cover, and that he sealed up and delivered it to Captain *Billop*.

Captain *Billop* says, he took these very Papers from my Lord *Nottingham*, and as he received them, carried them without opening to my Lord President.

My Lord President says, he lockt them up unopened in a close Cabinet in his Closet-room, where no body comes; there they were that Night, and the next Day he carried them intire to the King, and some of them were read by the King, in the Presence of my Lord President; and, they were all taken away again by his Lordship, no more nor no less; and, my Lord President brought them all to the Cabinet-Council, where they were read, and were delivered to my Lord *Sidney*.

My Lord *Sidney* swears, these Papers now produced, are the same Papers he had from my Lord President, and my Lord President swears, that they are the same he received by *Billop* from my Lord *Nottingham*, and my Lord *Sidney* markt them.

So that there can remain no doubt of these being the same Papers, that were contained in the Pacquet, that was taken out of the Bosom of Mr. *Ashton*.

Then, as to the Matter of the Papers, I think it is plain beyond all contradiction, that the Import of them is Treasonable: They shew a Design of invading the Kingdom by a Foreign Force, and of Deposing the King and Queen from the Government, and of setting the late King upon the Throne.

It is agreed, as it is mentioned, at a Conference, between several Noblemen and Gentlemen, that were of the Whigg and Tory Party, as they call them, that the late King was to be restored, though by a *French* Power.

It was impossible for them to effect it, by going plainly to work, and saying in plain Words, the *French* should invade us. It was to be done in this manner.

The *French* King must pretend by all means to be our Friend and a Mediator, betwixt the late King and the People of *England*, and this was out of design, plainly to get a Party of the Kingdom, to joyn with them; the most credulous and inconsiderate sort of People; who when they should be seduced into a Belief of the *French* King's great Kindness. It was not doubted but there would be a Conjunction between them and the *French* Forces, to restore the late King.

And to procure such a Perswasion in the People; the *French* King was to shew himself kind to the *English* Protestants, to appear and act another part than he had formerly done; he was to permit them the Exercise of the Protestant Religion, thereby to perswade many, that his Persecution of his own Subjects, the Hugonots, was not out of any Aversion to the Protestant Religion, but only to their Antimonarchical and Resisting Principles.

Then an Inconvenience is to be removed; for they complain, that they are too full of Bigottry at *St. Germain's*, and too bare-faced: For they make an open Profession of Popery, and speak truly what they do intend; but say they, if they will have the Design take effect, they must be more Close and Secret: For the Folly and Bigottry at *St. Germain's*, was a very great Obstruction. Therefore, they proposed, that some Persons might be substituted as Agents to Correspond here, that understood the Temper of the Nation, and what would easiliest prevail with the People: And a Model was to be framed at *St. Germain's*, the Protestants are to be seemingly caressed, Seven or Nine to be of the late King's Council, that so we might believe, that he was ours in Interest again, and that we have a Relation to him.

And if things were carried with such cunning and subtilty, they hoped to delude a great many People over into the Interest of the late King; but, if they went bare-faced, it would cause such great Jealousies, that they must totally despair of Success.

Yet they did not hope by these Artifices to obtain so many Friends here, as might have been sufficient to accomplish their Design; but they must have recourse to a foreign Force, particularly a French Force. For says one of the Papers, *Use Foreigners to expel Foreigners*; that is, Use French Foreigners to expel Dutch Foreigners, who are our Allies, and are falsely accused by them to have trampled upon the Rights and Liberties of the Nation.

There is one Argument used to encourage People to assist the French in the Invasion of their own Country, which I cannot omit, namely, *That as soon as the French, with a considerable Expence of Men and Money, had restored the Protestant Religion, the late King to the Crown, and the People to their Liberties, then he would withdraw all his Forces, and reap no Profit or Advantage by his Success.* I must confess, this carries so little of Persuasion in it, that it is ridiculous to think thereby to impose upon any number of Men. But notwithstanding the weakness of their Arguments, it is apparent they were in good earnest; the Papers give an account to the French, in what state and condition our Forts were, Portsmouth not man'd with above 500. and Gosport how weakly fortified.

It was a happy juncture between this and the first of March, when Advice is given to make use of the Opportunity. For Men cannot give, but Men may use Opportunities, and something was to be done forthwith, and the Goods must be got in readiness, particularly the Linnen and the Copper are mentioned, which are mysterious and dark Expressions, and you may put a Construction upon them as well as I; for they are written in a style of Trade, as if there were a Correspondence between two Traders, and the Linnen and the Copper are ordered to be brought before the 10th. of March.

But however obscure some of these Expressions are, there are others that are more plain, *That the French Fleet must be out in April at farthest, and are to come before the Conjunction between the English and the Dutch, and Jennings, Strickland, or Trevannian are to come from St. Mallo's in one Night, and to fight the English Fleet in the Chops of the Channel, and not to come so high as Beathy, where they came the last Year.*

And there is an account given, in what condition and state our Navy was, how many Ships, what Rates, how Man'd, and who the Officers; and then as the French were to be in readiness to come in April, so they say our Fleet was not to be out till June.

Gentlemen, There are a great many other Particulars; but these are enough, nay half of them were enough to make any Man guilty of Treason, that was concerned in them, or that had a hand in carrying or making use of them.

Besides, there are other Letters which can import nothing, but the Writer was of the late King's Interest; one directed to Mr. Redding, the other to Mrs. Redding; and these were to go to France to let them know how zealous he was in his Duty, and how the interest of the young Master increased. The Letters have these Expressions: *That though the Family were decreased, yet our Interest is increased, which is yours, and I speak in the Plural Number, because I speak the Sentiments of my elder Brother, and the rest of our Relations, and desire them to believe they were zealous and cordial in their Duty to Mr. Redding.* Now what Interpretation you will make of this, I'll leave to you.

Then there is another Letter to Mrs. Charlton, and another to Mr. Jackson, and divers other things that have been read, and amongst the rest, hath been read the Heads of a Declaration at large, shewing what should be done, and what Methods should be taken in order to the restoring the late King, and deposing this.

And there is also mention made in a Paper, how divers Persons, who were to be pardoned, as particularly, *all Justices of the Peace actually in Commission are not to be excepted; Outlaws are to be pardoned; Chimney-Money to be taken away; and all that come in within One and Twenty Days are to be forgiven.*

So that it is plain, these Letters import a Design to depose the King and Queen, and the Kingdom to be invaded by Foreigners, only a little to colour the matter, not to lose the pretence of a Protestant Interest altogether, there was to be 5 or 6000 Swedes to be made use of in the Invasion.

Gentlemen, if there was a Design of an Invasion, be it by Papists, or by Protestants, if any Act was done tending thereunto, it is High Treason within the Statute of 25 E. 3. For purposing and intending to depose the King and Queen, manifested by any Overt-Act, hath been always held to be High Treason.

This, Gentlemen, is the Sum and Substance of the Evidence that has been given at the Bar.

Mr. Ashton says for himself, it is true, saith he, my Design was to go to France, I was so unfortunate as to have the Papers taken about me. I did take them up; but, says he, it is not at all proved that any one of the Papers that are now produced are my hand: Which is true: There is no such Proof.

The next thing is, that Mr. Ashton being ask'd, What occasion he had to go to France? He says, he had formerly a Relation to Coll. Worden, and did transact and had the Management of his Affairs, which were very great. Coll. Worden died half a year ago, and he enjoin'd him upon his Death-bed to go into France about settling some Accompts of his, and he was desired by the Family of Coll. Worden so to do.

This Mr. Ashton alledges; but he has not proved it. 'Tis very strange, that if Mr. Ashton was to go to France to negotiate that Affair for Colonel Worden's Family, none of that Family should be produced to prove, that Coll. Worden gave him such Directions, or that the Family desired him to go into France upon that account.

Then Mr. Ashton hath endeavour'd to give another reason for his Voyage into France; he affirms, he had some Affairs of his own with relation to the late Queen, he was concerned for her, and she did owe Monies here, and he paid several Debts to Tradesmen, particularly 400^l. she owed to the Coach-Harness Maker; and he having paid it, went over to reimburse himself: The Tradesman was produced, and he says, Mr. Ashton did pay the Money a Year ago; but whether Mr. Ashton had Effects from the late Queen, or paid it out of his own Pocket does not appear; Mr. Ashton says, he paid it out of his own Pocket, which is very extraordinary, that he should be so kind to pay what he was not oblig'd to pay, and have no security to reimburse himself.

So that, Gentlemen, you had best consider whether there be any thing at all said or proved, that can justify Mr. Ashton's going to France, or whether there be any good reason offer'd for it.

Then

Then *Ashton* has called Witnesses to prove, that he was always a Protestant, though he did live in a Popish Family, where they did encourage Papists and discountenance Protestants; for which he had the ill will of those he did depend upon.

Gentlemen, all that is agreed, and it is not a question in this Case; whether Mr. *Ashton* be a Protestant or a Papist; but the Question is, whether he be guilty of High Treason, from which the being a Protestant does not secure a Man.

But Gentlemen, if Mr. *Ashton* had no Knowledge upon what design the other Persons were to go into *France*, though he had actually gone into *France*, it had been a Crime in this Juncture of Affairs, yet not High Treason; but to go on into *France*, and carry a Treasonable Scheme of a Design and Project of an Invasion, that is Treason.

Now the Question is, whether Mr. *Ashton* went with such a Purpose or not, you are to consider; I would not lead you into any strain of the Evidence, but only state it how it stands. It is plain he was concerned all along in hiring the Smack, and as the King's Counsel observed to you, the Price was something extraordinary; they were to pay 100*l.* for the Voyage, to which was added some Encouragement to the Woman, that if she performed this Voyage well, she might get 1000*l.* before *Lady Day*, and the Money was paid by Mr. *Ashton*, and he was taken aboard the Vessel.

Mr. *Ashton* was much concerned to secure the Papers, by taking them out of the place where they lay, upon the Ballast under the Quarter-Hatches, and after they were taken out of his Bosom, he was very importunate, and so often with Captain *Billop* to throw them over-board.

And why should he be so earnest and concerned, unless he very well knew and was acquainted with the contents of those Papers.

And he gave one of the Seamen 2*s.* 6*d.* to say they were bound for *Flanders*: Unless it was a matter of great Importance he went about, and that was not fit to be known; why should he deny it, or labour to have it concealed? An 100*l.* to be paid for this Voyage, was, upon a joint Account, as well for my Lord *Preston* as for *Ashton* and *Elliat*; Mr. *Ashton* did pay the Money, and he does not make it appear whose it was.

Gentlemen, it rests upon you to consider the Evidence you have heard, whether it is sufficient to induce you to believe Mr. *Ashton* was going into *France* with these Papers, to carry on the Design of Deposing the King and Queen, and invading the Kingdom: If you are not satisfied in your Consciences that he is Guilty then; find him not Guilty. On the other side, if you are satisfied that he is Guilty, I do not question but you will find him so.

L. C. J. *Pollixfen*. Look you, Gentlemen of the Jury, My Lord has rightly repeated and stated the Evidence to you, I shall only say but a very few Words to it.

Mr. *Ashton*, as at first he did, so in his Defence has complained of a very speedy Tryal, and would insinuate something of Favour that he might find for that Reason. It does appear he had notice of his Tryal sufficient, and had Time enough to prepare for it: But there is one thing extraordinary has happened to his Advantage, which I would desire may be taken notice of. If he had been tryed on *Saturday*, perhaps he had had more reason to complain than now he has;

for he has now (and you see he uses it, and wisely enough too) the Advantage that happened to him upon my Lord *Preston's* Tryal; and he has had time since *Saturday* to prepare for this days Work, so that there is no hard Point upon him as to that Matter, but he has had pretty good Fortune therein.

Next he does insinuate that he is a Protestant: Gentlemen, the Law does not distinguish between a Protestant Traytor and a Papist Traytor; if he has committed such an Offence, as by the Law is High Treason, the Law does not distinguish, nor may we. And Protestants may serve Papists Designs, though they do not directly intend it. Therefore the Evidence to prove him a Protestant is nothing before you, for the Matter is only whether he be guilty of this Crime or not.

In the Tryal of my Lord *Preston*, then the Labour was, that My Lord was not the Man that was concerned, as the Bearer of this Packet of Letters or Writings wherein the Treason is contained; but then it was Mr. *Ashton*, the Packets were found about him; but now it is not Mr. *Ashton*, but my Lord *Preston*, and this is now the Question before you, that he stands upon.

But if so be they were all concerned in the Carriage and transporting of this Business, then they are all alike guilty of Treason, and therefore they cannot shuffle it from one to another.

Now there appears some Reason why they would not all agree to be tryed together; for now it is but turning it from My Lord *Preston* upon *Ashton*, and Mr. *Ashton* upon my Lord *Preston*, and *Elliot* upon either of them, and so by this means all might escape, if this were sufficient to serve their turn.

But the Question before you, is, whether all these Persons are not all in all equally concerned, and 'tis the Evidence that must be your Guide and ours; for it is not Mr. *Ashton's* Affirmation, that he had Business to go into *France*, and he happened unluckily to fall into these Mens Company, that will be a sufficient Excuse, unless he prove it.

It had been an easie matter for him to have proved, if he had been going into *France* upon Business for Colonel *Worden*; but at length that is turned off, and then the pretence for going is, to recover some Money he had owing to him there, and that he had payed for another Person. Had he Paper of Instructions of this kind? Had he any one Witness of this thing?

The Merchandize that he carryed out with him is of another import. Where were the Notes or Bonds that he was to recover? Where is the Accompt that he had made up with any body beyond Sea? There is no manner of Evidence of any such thing.

Next Gentlemen, do but consider, if the Man were so innocent as he would insinuate, as if he had not gone with the rest upon this Errand, how came the Man to have so heavy a Concern upon him? Why should he go to take up these Papers, if they were not his Brats? Why should he clap them into his Bosom, if he knew nothing what was in them? Why was his concern so great to have them thrown overboard?

Gentlemen, if you expect that the Hearts of Men should be proved otherwise than as Men, guess by one anothers meanings; by their Actions 'tis impossible to convict any Man of a Crime; for if his own Affirmation shall be a Defence, he will never want a Defence to keep himself from being convicted: But that is not what the Law gives credit to; it must be Proof and Evidence that you are to judg upon. But of all he pretends to he proves nothing. How

How came he acquainted with my *L. Preston*? Sure he was a Man sufficiently known in the World? Why should he go with him and *Mr. Ellyott*? Are they not all known? Are they not Persons much of the same Disposition, and much in the same Employment?

He had been taken a little before, he says himself, and was hindred from going; and he had strange ill luck, if there was nothing else in the business than what he pretends.

Gentlemen, in short, if you do find by the Evidence, that he was going upon a good and an honest Design, and that he knew nothing of the Danger that was in these Papers, and that these Persons were in, by reason of these Papers, and yet would go about to have these Papers concealed, and endeavour to have them thrown away, without knowing what was in them: These are Evidences that will be good for you to go by, if you have any such; but to take his Affirmation, because he says it, when he proves nothing, that is no Evidence to go by.

I leave it to you, as my Lord has done. If you are satisfied upon that Evidence that he is guilty; I doubt not you know and will do your Duty, and will find him so; and if you have no such Evidence, or any to prove the contrary, that he is not guilty, then you ought to find him so too.

Mr. Ashton, I beg your pardon for one word.

L. Ch. J. Holt, What would you say?

Mr. Ashton, My Lord, I shall reckon it a particular Favor, if you will pardon me one word, after your Lordship has given the Charge.

L. C. J. Holt, Well, what say you?

Mr. Ashton, I think, with Submission, that there is no proof I knew or was privy to the Contents of any of these Papers.

L. C. J. Pollexfen, Pray *Mr. Ashton*, shew any Man any Reason, if you can, why did you go down and catch up these Papers, if you did not know what was in them; they might be for your Advantage to be shewn, for any thing you pretend to know.

Mr. Ashton, I did it for my *L. Preston*'s Sake, whose Hand was proved, and he stands convicted as the Bearer of those Papers.

Mr. J. Eyres, But you forget one thing that was plainly proved, *Mr. Ashton*, that when you importun'd *Capt. Billop* to throw away the Papers, you used this as an Argument, *It would do him no good to injure three honest Gentlemen*.

Mr. Ashton, I did not say so, my Lord, that I know of, tho indeed he has sworn it.

L. Ch. J. Holt, Look you, *Mr. Ashton*, you have been heard as long as you did desire to speak, and were askt over and over again, whether you had any more: You are not now saying any new Matter; if you could urge any thing that had been omitted, which made for your Advantage, I believe the Court would indulge you, tho it is against the Course.

Mr. Ashton, My Lord, I say that nothing under my Hand, there is no Privy proved; does Supposition make a Man? And is there any thing but Supposition against me? There is not my Hand proved in any of the Papers. I beseech your Lordship and the Jury to observe that.

L. Ch. J. Holt, Your being in the Company, and being so concerned, and importunately endeavouring to have them thrown overboard; the hiring the Vessel to go with these Treasonable Papers to an Enemies Country, and the Papers found about you, is Fact proved, and is left to the Gentlemen of the the Jury to consider of.

Mr. Ashton. But does all this amount to more than Suspicion?

L. C. J. Holt. Look you, *Mr. Ashton*, if you speak after we have charged the Jury, you will give us an Occasion of speaking to answer you; the Gentlemen of the Jury are Men of Understanding, they have very well observed the Evidence, and I perceive they have been very extraordinary intent upon it, they will be able to make a right Judgment, no Question of it.

Mr. Ashton. All that I desire, is; there is nothing proved upon me, of my knowing what was in these Papers.

Mr. J. *Eyes*. And there is that which is very considerable too, that 'tis plain, what you say about Coll. *Worden's* Account, is but a Pretence, for which you were searcht, there was not one Paper nor one bit of Account found about you, nothing but this Bundle of Treasonable Papers and Letters.

Mr. *Ashton*. My Lord, I humbly begg you will observe what is for me, as well as what is against me.

L. C. J. *Holt*. Gentlemen of the Jury, do you think you shall stay out any Time, the Court desires to know it, because they will order themselves accordingly.

Juryman. My Lord we do not know till we come together.

L. C. J. *Holt*. Nay, take your own Time, only the Court would comply with your conveniency in the Adjournment.

Then the Jury withdrew, and the Court adjourn'd for half an Hour, and when they were returned, the Jury came in to give their Verdict, and being called over, answered to their Names.

Cl. of Arr. Gentlemen, are you all agreed of your Verdict?

Jury. Yes.

Cl. of Arr. Who shall say for you?

Jury. Our Foreman.

Cl. of Arr. *John Ashton* hold up thy hand.

[Which he did]

Look upon the Prisoner; How say you? Is he Guilty of the High Treason whereof he stands indicted, or not Guilty?

Foreman. Guilty.

Cl. of Arr. What Goods or Chattels? &c.

Foreman. None that we know of.

Maj. *Richardson*, Look to him, he is found guilty of High Treason.

Cl. of Arr. Then hearken to your Verdict, as the Court hath recorded it. You say that *John Ashton* is guilty of the High Treason whereof he stands Indicted, but that he had no Lands nor Tenements, Goods nor Chattels, at the time of the High Treason committed, nor at any time since to your knowledg, and so you say all?

Jury. Yes.

L. C. J. *Pollexfen*, Gentlemen, I think truly you have gone according to your Evidence, which the Law requires you to do, and that is it which will preserve us all. And tho it be truly a thing that falls hard upon the particular Men that are concerned in such things; yet notwithstanding, we must have more consideration of the general Good, and Preservation, and the Support of the Government, and that the Law have its due Course, than of any particular Man's Case, as to the hard Point of it: We must look to these things, or there will be no living in the World.

Sir *W. Hedges*, My Lord, we are of your Lordship that we may be dismiss'd from further attendance on these Sessions.

L. C. J. *Pollexfen*. Ay.

Cl. of Arr. Gentlemen, you are dismiss'd, and the Court thanks you for your Service.

Then the Court adjourned for an Hour, and then the Lord Mayor and Deputy Recorder, with several of the Justices and Aldermen returned into the Court, and after Proclamation for Silence, Order was given to bring the Lord Preston, and Mr. Ashton to the Bar. [which was done] The Lord Preston standing without the Bar, and Mr. Ashton within.

Cl. of Arr. Sir *Richard Graham*, hold up your hand.

[Which he did.]

John Ashton, hold up your hand.

[Which he did.]

My Lord *Preston*, You stand convicted of high Treason, for conspiring the Death of the King and Queens Majesties, for adhering to the King's Enemies, and endeavouring to subvert the Government: What can you say for your self, why the Court should not proceed to give Judgment against you of Death according to the Law?

Lord

Lord *Preston*. 'Tis true, my Lord, the Jury have found me guilty of the Treason assigned in the Indictment. My Lord, it is a Treason of a very heavy and black Nature, 'tis of such a Nature, that if I had been conscious to my self to have deserved, I should be very willing to undergo that Judgment that is like presently to pass upon me. It is to endeavour to bring in the King of *France* to Conquer and Invade this Kingdom; 'tis a thought I always abhorred; I love my Religion, my Family, my Country too well to attempt or endeavour any such thing; I must appeal to your Lordship, though now perhaps it is too late, whether the Treason that is laid against me has been perfectly proved; for in the Case of proving Hands, and particularly in the Case of Collonel *Sidney*, It was disallowed that comparison of Hands should be Evidence; there ought to be at least one if not two Evidences to prove the writing of it. My Lord, I know this is too late, I should have offered this to the Jury before, but being in the Crowd and in great disorder by standing so long, I had not strength or ability enough to urge it as I should. I have nothing more to say in the Case but submit to that Judgment that the Law has assigned.

Mr. *D. Recorder*. My Lord *Preston*, Your Lordship knows the proceedings of the Law in such Cases; there is no averring against the Verdict of the Jury, they have found your Lordship guilty, and the Law says, that Judgment must be given upon you according to that Verdict.

Lord *Preston*. Mr. *Recorder*, I do not aver against the Verdict. I own it is too late, I should have offered it before, and I submit to the Judgment of the Law.

Cl. of Arr. *John Ashton*, hold up thy hand. [which he did.]

You are in the same Case with the Prisoner last before you. What can you say for your self, why Judgment should not be given against you, to die according to Law.

Mr. *Ashton*. My Lord, I would humbly desire I might have a sight of my Indictment; I have some reason perhaps to believe that I am found guilty upon an Erroneous Indictment, and if it be so, I would desire to have Counsel to argue the Errors of the Indictment.

Mr. *D. Record*. You have heard it twice read in *English*, and once in *Latin*, and that is all that is allowed to any one in Your Case, I never knew the Record of any Indictment shewn to any Prisoner at the Bar.

Mr. *Ashton*. Suppose there be any Error in it.

Mr. *D. Record*. I am not to suppose any such thing, if there is any, it has been read to you, assign it and the Court will consider of it.

Mr. *Ashton*. If I can assign the Error in the Indictment, may I have the advantage of it then?

Mr. *D. Record*. If there be Error, you will have the advantage of them: If you will assign them; if there be none, you can have none.

Mr. *Ashton*. Then I say, if there be words in the Indictment that there are no such Words in Nature, then, Sir, I am told it is a Vicious and Erroneous Indictment, and that is enough to viciate the Indictment.

Mr. *D. Record*. No such Words in Nature? It is hard to tell what you mean by that; perhaps there are terms of Art in the Law, which though you are not acquainted with, we are.

Mr. *Ashton*. Then there are such Words in Nature.

Mr. *D. Record*. That is an insensible Expression, *Words in Nature!*

Mr. *Ashton*. I am informed that even a Letter in an Indictment is enough to viciate it, or if it be false *Latin*, that will make it an Erroneous Indictment.

Mr. *D. Record*. No, that is not so; but if you will tell me what that Letter is, I'll tell you what I say to it; it may, or it may not be material.

Mr. *Ashton*. We know it was lately disputed in a Case of this Nature at this Place, and I am informed the Court were of Opinion, if it had been in the Body of the Indictment, it had been an Error.

Mr. *D. Record*. If you please to tell me wherein the Error in your Indictment

ment consists, I may be able to give you a good Answer to it, or you will have the advantage of it.

Mr. *Ashton*. I say it consists in this, the Word *Cymba* is written with an S in the Indictment, whereas it should be with a C.

Mr. *D. Record*. How do you know it?

Mr. *Ashton*. It is no matter how I know it, I have some reason to know it, it may be.

Mr. *D. Record*. Mr. *Hardesty*, look upon the Record.

Mr. *Ashton*. With Submission, that is an Error, for there is no such word as *Cymba* with an S.

Cl. of Arr. It is a long Indictment; will you please to ask him where about it is.

Mr. *D. Record*. Mr. *Ashton*, will you tell me where 'tis written.

Mr. *Ashton*. In the Indictment when you come to speak of *Cymba* a Boat.

Mr. *D. Record*. By the sound I cannot distinguish whether it be S or C.

Mr. *Ashton*. Sir, I hope you will do me the Justice to examine the Indictment it self.

Mr. *D. Record*. The Clerk is looking upon it; how is it Mr. *Hardesty*? Is it with an S or a C?

Cl. of Arr. It is with a C.

Mr. *D. Record*. The Clerk has read it, and he certifies me it is in both places with a C which is true *Latin*.

Mr. *Ashton*. Is it in all places with a C?

Cl. of Arr. I have lookt in two places and 'tis right; I'll look further, if you please.

Mr. *Ashton*. Pray do.

[which he did.]

Cl. of Arr. It is with a C. in all places.

Mr. *D. Record*. The Clerk tells me it is the same, and right in every place, and he has lookt over all the Indictment, as to the matter.

Mr. *Ashton*. Then Sir I submit to it.

Mr. *D. Record*. Make Proclamation for Silence; [which was done.]

Mr. *D. Record*. My Lord *Preston*, or rather Sir *Richard Grahme*, and Mr. *John Ashton*, Ye have been Indicted, Arraigned and Convicted of High Treason against their present Majesties King *William* and Queen *Mary*, whom God preserve. Ye have had a long, and a fair, and favourable Tryal as any Persons that ever have been tryed at this Bar.

The Jury that has passed upon your Lives and Deaths has convicted you; and the Court are now to do their last Act, which is to pronounce that Sentence that the Law does inflict upon you, as ye stand Convicted of.

It is a great trouble to me to pronounce a Judgment that is so heavy upon you; but I must say, the Evidence that has been given against you, was so clear, and I suppose not only convincing to the Twelve Men that tryed you, but to all By-standers, that I can do it with that satisfaction that becomes one who is intrusted with the King's Justice, that the Law may obtain, and that there should be no Interruption of Justice. And the Sentence that the Law has declared should be pronounced in this Case, is this:

That Ye do respectively go to the place from whence Ye came; from thence to be drawn upon a Sledge to the place of Execution, to be there hang'd up by the Neck, to be cut down while Ye are yet alive, to have your Hearts and Bowels taken out before your Faces, and your Members cut off and Burnt, Your Heads severed from your Bodies, Your Bodtes divided into four Quarters, Your Heads and Bodies respectively to be disposed of according to the King's Will and Pleasure; and the Lord have mercy upon your Souls.

Then the Prisoners were conveyed away to *Newgate*, the Place from whence they came.

[133]

A N
A C C O U N T
O F
Two L E T T E R S ;

One of which is from the

Late King James
T O T H E

P O P E,

As it is Extracted out of the Register taken at *Dublin*, July 4. 1690.
With a Marginal Note, *That it was all written with His own Hand.*

T H E O T H E R I S,
An Original L E T T E R
F R O M T H E
E A R L of M E L F O R T,
(The late K I N G's Principal Secretary of State)
T O

The Late Queen,

Taken also at *D U B L I N* at the same time.

I T is thought proper, upon this Occasion, to expose these Letters to publick View, which could not have been so seasonable at another time as now, when the Enemy has given open Proofs of those Designs which by these Letters will appear to have been long concerted by them: and although, by the Providence of God, they have been hitherto prevented; yet since hereby, and by the late Discovery, the Industry of those who endeavour to Subvert this Government, is not only manifest, but that they give themselves great encouragement to believe they shall be able to effect it; It is hoped, that these warnings will stir men up to such a degree of Vigilance, as will make them careful to prevent any future Designs against the Peace and Quiet of the Kingdom.

M m

Bea.

Beatissime Pater,

GAudium ex Vestrae Sanctitatis in B. Patris Cathedram elevatione conceptum, literis nostris per Comitem de *Melfort* primum Secretarium nostrum missis expressum. Litera S. V. manu scriptae sinceri amoris paterni & tenerae compassionis ob ea quae Patimur testes adeo auxerunt, ut malorum sensum minuerint, & nos verè consolata sint. Unica turbarum contra nos excitationum origo est, quod Catholicam Fidem amplexi simus, & eandem in tria Regna & latè sparsas per *Americam* nostrorum subditorum Colonias reducere statuisse nuper neutrum negamus. Posterius quae fecimus in hoc Regno probant, ubi enim divino auxilio, parvas quidem, sed frequentes victorias de Rebelligis reportassemus (magnam impedierunt isti, decretoriam pugnam pertinaciter declinantes) iis in Religionis bonum usi sumus, quam hinc spero brevi firmiter stabilitum iri. Idem in aliis ditionibus nostris factum, ubi divinâ ope iisdem restituti fuerimus. Hoc non ita difficile videtur, modo subsidio aliquo juvemur, adeò ægre ferunt grave usurpationis jugum, & nostri reditus tam sparsum est desiderium. Juvabit Pax Catholicos inter Principes inita, aut si pacem temporis angustiae vetent, Induciae, quae etiam finem imponent Tragediae in Germania inchoatae, ubi Heretici in ipsis Ecclesiae visceribus hærent eaque rodunt. Nihil opus verbis, ubi res ipsae tam clarè loquuntur, & opem implorant. Apostolicus S. V. zelus aliquam providebit malis parca, & à fiduciâ pleni Deum veneramur, Beatitudini vestrae longum & prosperum regimen largiatur, atque pedibus ejus advoluti, omni cum debito sanctitatis vestrae filiali amore atque observantiâ, Apostolicam Benedictionem postulamus. Datum Dublinii, 26 Novemb. 1689.

Dublin,

Dublin, 26 Novemb. 1689.

Translation of a *Latin* LETTER, whereof the Copy is annexed, which was then writ by King *James* to the Pope, as 'tis extracted out of the Register taken at *Dublin*; with a Marginal Note, *That it was all writ with His own Hand.*

Most Holy Father,

WE did by the Earl of Melfort, Our Principal Secretary of State, signifie to Your Holiness the Joy We had in Your Promotion to the Sacred Chair. And those Letters which Your Holiness did with Your own Hand write Us, were such Testimonies of Fatherly Love, and of Your Tender Compassion for what We suffer, that they have lessened the sense of Our Calamity, and have proved of real Consolation to Us. The only source of all these Rebellions against Us is, That We embraced the Catholick Faith; and do not disown, but that to spread the same not only in Our Three Kingdoms, but over all the dispersed Colonies of Our Subjects in America, was Our determination. To manifest this, there will need no other proof, than to see how lately We have proceeded in this Kingdom; for as We have frequently beaten the Rebels in small Parties, (which might have been one complete Victory, if they had not obstinately declined to give Us Battel); so We have still turn'd all to the advantage of Religion, and hope very soon to see it here firmly established: Nor will it look hard, if but aided by some Subsidies, to compass the same in Our other Dominions, as soon as by God's favour We shall be restored, seeing Our People do so ill bear the Usurper's Yoke, and so universally long for Our Return. It would promote this Work, if a general Peace were settled among the Catholick Princes, or a Truce at least, in case the time be too short for the other: for this would put an end to those Calamities begun in Germany, and where the Hereticks lie now gnawing in the very Bowels of the Church. But what need We speak on this Subject, where the things themselves are so loud, and implore Your Aid? The Apostolick Zeal of Your Holiness must find out Remedies fit for these Evils; and in full confidence hereof, We beseech God to give Your Holiness a long and happy Reign: And We being, with all Love and filial Observance prostrate at Your Feet, do beg Your Apostolical Benediction. Given at Our Castle of Dublin, this 26th of November, 1689.

May

May it please your Majesty,

Since the last Post, not having had any new occasion of demanding Audience of the Pope, I went to the Cardinal Ottoboni, whom after four or five disappointments, I at last found, and informed him of the matter, and begged his assistance with the Pope, for all those Reasons which your Majesty has already seen, and what else I could invent.

The Cardinal seemed much more willing to enter into the Matter than formerly; was very glad at the News; told me, that he had seen Your Majesties Letter to the Pope, all of your own hand; That it was all their concerns; that he was but the Pope's Minister, and so could answer for nothing, but informing him Right, and that he promised to me he would do with as much affection to your Majesties Interest, as I could do if I were there. He complained (in confidence) to me, that the Pope had some about him who were not so affectionate, and that so he often left him well inclined, and found him changed at next meeting; but that in this he would do all that was in his Power. He said, he doubted not that I was informed of the Emperor's proceedings, how angry he was at the Pope, &c.

I told him, That for those about the Pope, if any of them contradicted his inclinations, I humbly conceived it to be his fault, who having the double Authority of Minister and Nephew, might easily make the Palace too hot for any who would oppose him, especially in things so just, and, indeed, so necessary for his Interest. That I was, indeed, informed of the Emperor's ~~Plots~~, but withal, knew how little that would signify, if he took the right way, which was to assist the King to his Throne, who would be in a condition to bring Europe to Peace on just terms, and not only to assist the Pope, but to profit his Eminence and all his Family; That I knew what a King of England could do, and what the Generosity of this King would do to such as obliged him, as his Eminence might do in this Conjunction; That the Emperor was lost however to them, and that made it the more necessary to hold in with some,

same, so as to have a Friend in time of need; That if this was true, I inform'd him of the nearest way to put himself above what the House of Austria could do, was to push on the Wheel that went easiest, and then the King on his Throne, that Family would not talk so high.

I had all the satisfaction in words I could desire; but in effect, I believe nothing will be done till the news of the Rising come, and then I am very confident something will be done; so I pray God we may have the news of it speedily: And if it be not dispatch'd hither before this come to your Majesties hands, I would humbly beseech your Majesty to get the M. C. King to send an Express with it hither, that we may make the greater impression with it; in the mean time, I shall (after the Post comes) endeavour another Audience, that I may still be keeping them in mind of what it's so much their duty to do however.

I am sorry, that on this important occasion, I should be so little useful to so good a Master; but it is God's will, and I must submit to it. I am told, how true I know not, that in Ireland they begin to be sorry for their injustice to me; pray God it be true, and that my Example may hinder them from falling in the like with Mr. De Lauzune, who will certainly carry higher than I did with them; and therefore I have some Reasons to fear, from the Humours he has to do with. I have written to all my Friends to do their best to keep peace; and that all may prefer the King's Service to their own private Interest, which I hope in God they will do, and that all shall go well. I am sorry to hear that there was not preparation made for the reception of the French; the King could do no more but send a Lieutenant-General, E. Dover, to take Order; but alas, the negligence of the Servant makes the Master suffer; and it will never be well till these negligences be punished as they deserve, as I doubt not this has been, if the story be true, that the fault was so great; and the worse the matter is represented in France, the more the King's Honour is concerned, not to suffer it to pass unpunished; one Example or two is necessary for the recovering of the Kingdoms; for there is not one thing I stand so much in fear of, as negligence in executing the King's Orders. Forgive me, Madam, for meddling in this matter, but I'll swear I cannot help it; I must be concerned, when I hear of any thing by which the King is prejudiced, either in his Reputation or Service.

I humbly Pray, That Almighty God may send his best Blessings upon the King, your Majesty, and the Prince; and that you may happy together for many years in your own England; and that all Subjects may rejoyce at it as heartily as I, who am,

May it please your Majesty,

*Rome, May 2.
1690.*

Your Majesties most Humble,

most Faithful, and most Obedient

Subject and Servant.

MELFORT

*Lady Melfort has her most Humble
Duty presented to your Majesty;
for which presumption, she begs
Most Humble Pardon.*

FINIS.